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federal register

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The six-month trial period ended August 6. The program is being continued on a voluntary basis (see OFR notice, 41 FR 32914, August 6, 1976). The following agencies have agreed to remain in the program:

Monday	Tuesday	Wednesday	Thursday	Friday
NRC	USDA/ASCS		NRC	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/NHTSA	USDA/FNS		DOT/NHTSA	USDA/FNS
DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
DOT/OHMO	CSC		DOT/OHMO	CSC
DOT/OPSO	LABOR		DOT/OPSO	LABOR
	HEW/ADAMHA			HEW/ADAMHA
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	HEW/HSA			HEW/HSA
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	HEW/PHS			HEW/PHS

Documents normally scheduled on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

ATTENTION: For questions, corrections, or requests for information please see the list of telephone numbers appearing on opposite page.

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Title 3—The President

Executive Order 12002 • July 7, 1977

Administration of the Export Administration Act of 1969, as Amended

By virtue of the authority vested in me by the Constitution and statutes of the United States of America, including the Export Administration Act of 1969, as amended (50 U.S.C. App. 2401, *et seq.*), and as President of the United States of America, it is hereby ordered as follows:

SECTION 1. Except as provided in Section 2, the power, authority, and discretion conferred upon the President by the provisions of the Export Administration Act of 1969, as amended (50 U.S.C. App. 2401, *et seq.*), hereinafter referred to as the Act, are delegated to the Secretary of Commerce, with the power of successive redelegation.

SEC. 2. (a) The power, authority and discretion conferred upon the President in Sections 4(h) and 4(l) of the Act are retained by the President.

(b) The power, authority and discretion conferred upon the President in Section 3(8) of the Act, which directs that every reasonable effort be made to secure the removal or reduction of assistance by foreign countries to international terrorists through cooperation and agreement, are delegated to the Secretary of State, with the power of successive redelegation.

SEC. 3. The Export Administration Review Board, hereinafter referred to as the Board, which was established by Executive Order No. 11533 of June 4, 1970, as amended, is hereby continued. The Board shall continue to have as members the Secretary of Commerce, who shall be Chairman of the Board, the Secretary of State, the Secretary of Defense, and the Chairman of the East-West Foreign Trade Board (Section 7 of Executive Order No. 11846, as amended). No alternate Board members shall be designated, but the acting head of any department may serve in lieu of the head of the concerned department. In the case of the East-West Foreign Trade Board, the Deputy Chairman or the Executive Secretary may serve in lieu of the Chairman. The Board may invite the heads of other United States Government departments or agencies, other than the agencies represented by Board members, to participate in the activities of the Board when matters of interest to such departments or agencies are under consideration.

SEC. 4. The Secretary of Commerce may from time to time refer to the Board such particular export license matters, involving questions of national security or other major policy issues, as the Secretary shall select. The Secretary of Commerce shall also refer to the Board any other such export license matter, upon the request of any other member of the Board or of the head of any other United States Government department or agency having any interest in such matter. The Board shall consider the matters so referred to it, giving due consideration to the foreign policy of the United States, the national security, and the domestic economy, and shall make recommendation thereon to the Secretary of Commerce.

SEC. 5. The President may at any time (a) prescribe rules and regulations applicable to the power, authority, and discretion referred to in this Order, and (b) communicate to the Secretary of Commerce such specific directives applicable thereto as the President shall determine. The Secretary of Commerce shall from time to time report to the President upon the administration of the Act and, as the Secretary deems necessary, may refer to the President recommendations made by the Board under Section 4 of this Order. Neither the provisions of this section nor those of Section 4, shall be construed as limiting the provisions of Section 1 of this Order.

SEC. 6. All delegations, rules, regulations, orders, licenses, and other forms of administrative action made, issued, or otherwise taken under, or continued in existence by, the Executive orders revoked in Section 7 of this Order, and not revoked administratively or legislatively, shall remain in full force and effect under this Order until amended, modified, or terminated by proper authority. The revocations in Section 7 of this Order shall not affect any violation of any rules, regulations, orders, licenses or other forms of administrative action under those Orders during the period those Orders were in effect.

SEC. 7. Executive Order No. 11533 of June 4, 1970, Executive Order No. 11683 of August 29, 1972, Executive Order No. 11798 of August 14, 1974, Executive Order No. 11818 of November 5, 1974, Executive Order No. 11907 of March 1, 1976, and Executive Order No. 11940 of September 30, 1976 are hereby revoked.

Jimmy Carter

THE WHITE HOUSE,
July 7, 1977.

[FR Doc.77-19925 Filed 7-7-77;4:13 pm]

rules and regulations

Title 5—Administrative Personnel

CHAPTER I—CIVIL SERVICE COMMISSION

PART 213—EXCEPTED SERVICE

Department of Health, Education, and Welfare

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This section is amended to show that one position of Confidential Secretary to the Assistant Secretary is excepted under Schedule C because it is confidential in nature.

EFFECTIVE DATE: July 11, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202–632–4533.

Accordingly, 5 CFR 213.3316(r)(10) is added as set out below:

§ 213.3316 Department of Health, Education, and Welfare.

* * * * *

(r) *Office of the Assistant Secretary for Education.* * * *

(10) One Confidential Secretary to the Assistant Secretary.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-19869 Filed 7-8-77;8:45 am]

Title 7—Agriculture

SUBTITLE A—OFFICE OF THE SECRETARY OF AGRICULTURE

PART 2—DELEGATIONS OF AUTHORITY BY THE SECRETARY OF AGRICULTURE AND GENERAL OFFICERS OF THE DEPARTMENT

Revision of Delegations of Authority

AGENCY: Department of Agriculture.

ACTION: Final rule.

SUMMARY: This document revises the delegations of authority from the Secretary and General Offices to reflect new positions and the organizational realignment of the Department of Agriculture. It has been determined that this action will enable the Department to better carry out its responsibilities and serve the public.

EFFECTIVE DATE: July 11, 1977.

FOR FURTHER INFORMATION CONTACT:

Robert Siegler, Deputy Director, Research and Operations Division, Office of the General Counsel, U.S. Department of Agriculture, (202–447–6035).

SUPPLEMENTARY INFORMATION: The delegations of the Department of Agriculture are amended by redesignating the title of the "Under Secretary" to the "Deputy Secretary"; by making delegations of authority to the Assistant Secretary for Food and Consumer Services, the Assistant Secretary for Marketing Services, the Director of Economics, Policy Analysis and Budget, the Inspector General, the Director, Office of Congressional and Public Affairs, the Administrator, Federal Grain Inspection Service, the Director, Office of Budget, Planning and Evaluation, and the Director, Office of Finance; by revising the delegations of authority to the Assistant Secretary for Administration, the Administrator, Agricultural Marketing Service, and the Administrator, Animal and Plant Health Inspection Service; and by deleting the delegations of authority to the Assistant Secretary for Marketing and Consumer Services, the Director of Agricultural Economics, the Under Secretary for Congressional and Public Affairs, the Director, Office of Investigation, the Director, Office of Audit and the Director, Office of Management and Finance.

Pub. L. 94–561 upgraded the position of "Under Secretary" to "Deputy Secretary". In accordance with that Act, the delegations of authority are amended to reflect the new title of Deputy Secretary. In addition, the Department has determined that its responsibilities and the services provided to the public can be better performed by dividing the responsibilities formerly performed by the Assistant Secretary for Marketing and Consumer Services between an Assistant Secretary for Food and Consumer Services and an Assistant Secretary for Marketing Services. Reporting to the Assistant Secretary for Food and Consumer Services will be the Food and Nutrition Service and a new agency, the Food Safety and Quality Service. Reporting to the Assistant Secretary for Marketing Services will be the Federal Grain Inspection Service established by Pub. L. 94–582, the Packers and Stockyards Administration, the Agricultural Marketing Service, and the Animal and Plant Health Inspection Service. The newly created Food Safety and Quality Service will perform the functions formerly performed by the Animal and Plant Health Inspection Service relating to meat and poultry inspection, including voluntary inspection programs under the Agricultural Marketing Act of 1946 (except with respect to animal byproducts), and the functions under the Humane Slaughter Act, and the functions formerly performed by the Agricultural Marketing Service relating to meat and poultry grading and standardization, inspection and grading of dairy products, standardization and inspection for fresh and processed fruit and vegetable products, and those functions authorized by the Egg Products Inspection Act and by Section 32 of the Act of August 24, 1935.

The Federal Grain Inspection Service will perform those functions authorized under the United States Grain Standards Act, as amended, and inspection and standardization functions relating to grain under the Agricultural Marketing Act of 1946.

In addition, in order to give added emphasis to the concept of zero-base budgeting it has been determined that the budgetary and program evaluation functions should be under the responsibility of the Director of Agricultural Economics who is currently responsible for Department-wide economic policy analysis. Accordingly, the functions in these areas formerly under the direction of the Assistant Secretary for Administration are transferred to the Director, whose title is redesignated as the Director of Economics, Policy Analysis and Budget. In addition to the other units reporting to the Director, a new Office of Budget, Planning and Evaluation will report to him. The name of the Office of Management and Finance is changed to the Office of Finance, which will continue to report to the Assistant Secretary for Administration.

The functions formerly performed by the Deputy Under Secretary for Congressional and Public Affairs will be performed by a new Office of Congressional and Public Affairs. The Director of the Office will report directly to the Secretary.

It has also been determined that the functions performed by the Office of Audit and the Office of Investigation should be merged into a new Office of the Inspector General. The Inspector General will report directly to the Secretary.

Lastly, minor editorial changes are made to conform the present delegations of authority with the delegations made herein, and to update the order in which Officers of the Department may act as Secretary in the absence of the Secretary as authorized by Executive Order 11957, January 13, 1977.

Accordingly, Part 2, Subtitle A, Title 7, Code of Federal Regulations is amended as follows:

Subpart A—General

1. Section 2.4 is amended to read as follows:

§ 2.4 General officers.

The work of the Department is under the supervision and control of the Secretary, who is assisted by the following general officers: The Deputy Secretary; the Assistant Secretary for Conservation, Research and Education; the Assistant Secretary for Food and Consumer Services; the Assistant Secretary for International Affairs and Commodity Programs; the Assistant Secretary for Marketing Services; the Assistant Secretary for Rural Development; the General Counsel; the Director of Economics, Policy Analysis and Budget; the Director, Office of Congressional and Public Affairs; the Assistant Secretary for Administration; the Inspector General; the Judicial Officer; and the Director of Communication.

2. Section 2.5 is amended to read as follows:

§ 2.5 Order in which Assistant Secretaries and the General Counsel shall act as Secretary.

(a) Pursuant to Executive Order 11957, dated January 13, 1977 (42 FR 3295), in the case of the absence, sickness, resignation, or death of both the Secretary and the Deputy Secretary, the Assistant Secretary for Conservation, Research and Education; the Assistant Secretary for Food and Consumer Services; the Assistant Secretary for International Affairs and Commodity Programs; the Assistant Secretary for Marketing Services; and the Assistant Secretary for Rural Development shall act as Secretary in the order in which they have taken office as an Assistant Secretary.

(b) In the case of the absence, sickness, resignation, or death of the Secretary, the Deputy Secretary, and the Assistant Secretaries referred to in paragraph (a) of this section, the General Counsel shall act as Secretary.

Subpart C—Delegations of Authority to the Deputy Secretary, Assistant Secretaries, the Director of Economics, Policy Analysis and Budget, and the Director, Office of Congressional and Public Affairs

3. The heading of Subpart C is amended to read as set forth above.

4. Sections 2.15 and 2.16 are renumbered §§ 2.13 and 2.14 respectively. Section 2.13, as renumbered, is amended by revoking paragraph (d) and by revising the heading and introductory text to read as follows:

§ 2.13 Delegations of authority to the Deputy Secretary.

The following delegations of authority are made by the Secretary of Agriculture to the Deputy Secretary:

* * * * *

(d) [Revoked].

5. A new § 2.15 is added to read as follows:

§ 2.15 Delegations of authority to the Assistant Secretary for Food and Consumer Services.

The following delegations of authority are made by the Secretary of Agriculture to the Assistant Secretary for Food and Consumer Services:

(a) *Related to food safety and quality.* (1) Exercise the functions of the Secretary of Agriculture contained in the Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1621–1627) relating to meat and poultry grading and standardization, grading and standardization of eggs and dairy products, standardization and inspection of fresh and processed fruit and vegetable products, grading and standardization and voluntary inspection of rabbits and edible products thereof, and voluntary inspection and certification of edible meat and other products.

(2) Exercise the functions of the Secretary of Agriculture contained in the following legislation:

(i) Egg Products Inspection Act (21 U.S.C. 1031–1056).

(ii) Act of May 23, 1908, regarding inspection of dairy products for export (21 U.S.C. 693).

(iii) Poultry Products Inspection Act, as amended (21 U.S.C. 451–470).

(iv) Federal Meat Inspection Act, as amended, and related legislation (21 U.S.C. 601–624, 641–645, 661, 671–680, 691–692, 694–695).

(v) Talmadge-Aiken Act (7 U.S.C. 450) with respect to cooperation with States in administration of the Federal Meat Inspection Act and the Poultry Products Inspection Act.

(vi) Humane Slaughter Act (7 U.S.C. 1901–1906).

(vii) Section 32 of the Act of August 24, 1935 (7 U.S.C. 612c), as supplemented by the Act of June 28, 1937 (15 U.S.C. 713c) and related legislation except functions which are otherwise assigned relating to the domestic distribution and donation of agricultural commodities and products thereof following the procurement thereof.

(viii) Procurement of agricultural commodities and other foods under section 6 of the National School Lunch Act of 1946, as amended (42 U.S.C. 1755).

(ix) In carrying out the procurement functions in subdivisions (vii) and (viii) of this subparagraph, the Assistant Secretary for Food and Consumer Services shall, to the extent practicable, use the commodity procurement, handling, payment and related services of the Agricultural Stabilization and Conservation Service.

(b) *Related to food and nutrition.* (1) Administer the following legislation:

(i) The Food Stamp Act of 1964, as amended (7 U.S.C. 2011–2025).

(ii) National School Lunch Act of 1946, as amended (42 U.S.C. 1751–1763), except procurement of agricultural commodities and other foods under section 6 thereof.

(iii) Child Nutrition Act of 1966, as amended (42 U.S.C. 1771–1785).

(2) Administer those functions relating to the distribution and donation of agricultural commodities and products thereof under the following legislation:

(i) Clause (3) of section 416, Agricultural Act of 1949, as amended (7 U.S.C. 1431), except the estimate and announcement of the types and varieties of food commodities, and the quantities thereof, to become available for distribution thereunder.

(ii) Section 709 of the Food and Agriculture Act of 1965, as amended (7 U.S.C. 1446a–1).

(iii) Section 32 of the Act of August 24, 1935, as amended (7 U.S.C. 612c), as supplemented by the Act of June 28, 1937 (15 U.S.C. 713c), and related legislation.

(iv) Section 9 of the Act of September 6, 1958 (7 U.S.C. 1431b).

(v) Section 210 of the Agricultural Act of 1956 (7 U.S.C. 1859), except with respect to donations to Federal penal and correctional institutions.

(vi) Section 402 of the Mutual Security Act of 1954, as amended (22 U.S.C. 1922).

(vii) Section 707 of the Older Americans Act of 1965, as amended (42 U.S.C. 3045f).

(viii) Sections 203 and 233 of the Disaster Relief Act of 1970 (42 U.S.C. 4413, 4457).

(3) Administer those functions relating to the distribution of food coupons under section 238 of the Disaster Relief Act of 1970 (42 U.S.C. 4457).

(4) In connection with the functions assigned in subparagraphs (1), (2) and (3) of this paragraph, relating to the distribution and donation of agricultural commodities and products thereof and food coupons to eligible recipients, authority to determine the requirements for such agricultural commodities and products thereof and food coupons to be so distributed.

(5) Receive donation of food commodities under clause (3) of section 416 of the Agricultural Act of 1949, as amended, and section 709 of the Food and Agricultural Act of 1965, as amended.

(c) *Related to committee management.* Establish and reestablish regional, State, and local advisory committees for activities under his authority. This authority may not be redelegated.

(d) *Related to Defense.* Administer responsibilities and functions assigned under the Defense Production Act of 1950, as amended (50 U.S.C. App. 2061 et seq.), and the Federal Civil Defense Act of 1950, as amended (50 U.S.C. App. 2251 et seq.), concerning wholesomeness of meat and poultry and products thereof; inspection of eggs and egg products; and food stamp assistance.

6. A new § 2.16 is added to read as follows:

§ 2.16 Reservations of authority.

The following authorities are reserved to the Secretary of Agriculture:

(a) [Reserved]. (b) *Related to food and nutrition.* Authority to appoint members of the National Advisory Coun-

cil on Child Nutrition as directed in the National School Lunch Act of 1966, as amended (42 U.S.C. 1763).

7. Section 2.17 is amended as follows:

(a) The heading and introductory text is revised to read as set forth below.

(b) revoking and reserving Paragraphs (a)(3)(iv), (xviii), (xix), (xx), (xxvi), and (xxviii) is revoked and reserved as set forth below.

(c) revoking and reserving Paragraphs (b) (18), (19), and (20) is revoked and reserved, paragraphs (b), (28) and (29) is revised, and a new paragraph (b)(32) is added to read as set forth below.

(d) A new paragraph (c) is added to read as set forth below.

(e) Paragraph (d) is revoked and reserved as set forth below.

(f) Paragraph (h) is revised to read as set forth below. As amended, § 2.17 reads as follows:

§ 2.17 Delegations of authority to the Assistant Secretary for Marketing Services.

The following delegations of authority are made by the Secretary of Agriculture to the Assistant Secretary for Marketing Services:

(a) *Related to agricultural marketing.* * * *

(3) * * *

(iv) [Revoked and reserved].

* * * * *

(xviii)–(xx) [Revoked and reserved].

* * * * *

(xxvi) [Revoked and reserved].

* * * * *

(xxviii) [Revoked and reserved].

(b) *Related to animal and plant health inspection.* * * *

(18)–(20) [Revoked and reserved].

* * * * *

(28) The Agricultural Marketing Act of 1946, sections 203, 105, as amended (7 U.S.C. 1622, 1624), with respect to voluntary inspection and certification of animal byproducts; inspection, testing, treatment, and certification of animals; voluntary inspection and certification of technical animal fats; and voluntary inspection and certification of products for dogs, cats and other carnivora.

(29) Talmadge-Aiken Act (7 U.S.C. 450) with respect to cooperation with States in control and eradication of plant and animal diseases and pests.

* * * * *

(32) The Endangered Species Act of 1973 (87 Stat. 884).

(c) *Related to grain inspection.* (1) Exercise the authority of the Secretary of Agriculture contained in the U.S. Grain Standards Act, as amended (7 U.S.C. 71–87h).

(2) Exercise the functions of the Secretary of Agriculture contained in the Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1621–1627) relating to inspection and standardization activities relating to grain.

(d) [Revoked and reserved].

(h) *Related to Defense.* Administer responsibilities and functions assigned under the Defense Production Act of 1950, as amended (50 U.S.C. App. 2061 et seq.), and the Federal Civil Defense Act of 1950, as amended (50 U.S.C. App. 2251 et seq.), concerning protection of livestock, poultry and crops and products thereof from biological and chemical warfare; and utilization or disposal of livestock and poultry exposed to radiation.

8. Section 2.18 is amended by revoking paragraph (d) as follows:

§ 2.18 Reservations of authority.

The following authorities are reserved to the Secretary of Agriculture:

* * * * *

(d) [Revoked].

§ 2.21 [Amended]

9. Section 2.21 is amended by deleting "2.17(d), 2.21(b)," in paragraph (a)(27) and substituting in lieu thereof "2.15(b)"; by deleting "2.17(d)" in paragraph (a)(28) and substituting in lieu thereof "2.15(b)"; by deleting the term "Agricultural Marketing Service" in paragraph (a)(28) and substituting in lieu thereof the term "Assistant Secretary for Food and Consumer Services"; and by deleting the term "Assistant Secretary for Marketing and Consumer Affairs" in paragraph (a)(30) and substituting in lieu thereof the term "Assistant Secretary for Marketing Services".

10. Section 2.21 is amended by deleting the term "Assistant Secretary for Marketing and Consumer Services" in paragraph (d)(2) and substituting in lieu thereof the term "Assistant Secretary for Food and Consumer Services"; by deleting the term "Director of Agricultural Economics" in paragraphs (d) (1), (3) and (16) and substituting in lieu thereof the term "Director of Economics, Policy Analysis and Budget"; by deleting the term "Assistant Secretary for Marketing and consumer Services" in paragraph (d)(7) and substituting in lieu thereof, the term "Assistant Secretary for Marketing Services"; and by deleting "2.27(a)" in paragraph (d)(16) and substituting in lieu thereof "2.27(c)".

11. Section 2.25 is amended by revoking and reserving paragraph (i) and by revoking paragraphs (b) and (g) and substituting the following in lieu thereof:

§ 2.25 Delegations of authority to the Assistant Secretary for Administration.

* * * * *

(b) *Related to finance.* (1) Exercise general responsibility and authority for all matters related to the administration of the Department's accounting and finance operations including:

(i) Financial administration, including accounting and related activities.

(ii) Financial reporting.

(iii) Operating the central voucher payment service for the Department.

(iv) Operating the Department's central accounting system.

(v) Maintenance, development, and operation of a centralized automated system integrating personnel statistics and reporting, with payroll, budget, and accounting operations.

(2) Formulate and promulgate Departmental financial policies, procedures, and regulations.

(3) Provide staff assistance for the Secretary, general officers, and other Department and agency officials.

(4) Review financial aspects of agency operations.

(5) Represent the Department in contacts with the General Accounting Office, the Treasury Department, and other organizations or agencies on matters related to his responsibilities.

(6) Designate the Department's Director of Finance.

(7) Provide management support services for the National Finance Center, and by agreements with agency heads concerned, provide such services for other USDA tenants housed in the same facility. As used herein, such management support services shall include:

(i) Personnel services, as listed in § 2.25(e)(10), and organizational support services, with authority to take actions required by law or regulation to perform such services.

(ii) Procurement, property management, space management, communications, messenger, paperwork management, and related administrative services, with authority to take actions required by law or regulation to perform such services.

(8) Administer the Department's records, forms, reports, and directives management programs.

* * * * *

(g) *Related to committee management.* Establish and reestablish regional, state, and local advisory committees for activities under his authority. This authority may not be redelegated.

* * * * *

(i) [Revoked and reserved]

* * * * *

12. Paragraph (a) through (d) of § 2.26 is revoked and reserved as follows:

§ 2.26 Reservations of authority.

(a)–(d) [Reserved]

* * * * *

13. Section 2.27 is amended by revising the heading and introductory paragraph thereof; by redesignating paragraphs (a) through (g) as (b) through (h) respectively; by deleting the term "Director of Agricultural Economics" in paragraph (e) as redesignated and substituting in lieu thereof the term "Director of Economics, Policy Analysis and Budget; and by adding a new paragraph (a) and revising paragraph (f) as redesignated to read as follows:

§ 2.27 Delegations of authority to the Director of Economics, Policy Analysis and Budget.

The following delegations of authority are made by the Secretary of Agriculture to the Director of Economics, Policy Analysis and Budget:

(a) *Related to budget, planning and evaluation.* (1) Exercise general respon-

sibility and authority for all matters related to the Department's budgeting affairs including:

(i) Budgetary administration, including all phases of acquisition, distribution, and control of funds.

(ii) Budgetary reporting.

(iii) Legislative reporting and related activities.

(2) Provide staff assistance for the Secretary, general officers, and other Department and agency officials.

(3) Formulate and promulgate Departmental budgetary, legislative, fiscal, and committee management policies, procedures, and regulations.

(4) Review budgetary, legislative, and fiscal management aspects of agency operations and proposals.

(5) Represent the Department in contacts with the Office of Management and Budget, the General Accounting Office, the Treasury Department, Congressional Committees on Appropriations, and other organizations or agencies on matters related to his responsibility.

(6) Designate the Department's Budget Officer.

(7) Administer the Department's management improvement program including the provision of assistance to agencies through management studies, organizational analysis and planning review; review the management and operating policies and processes, search for more economical approaches to the conduct of business and provide such other assistance as will aid in improving the management effectiveness, organization, and operation of the Department's programs.

(8) Maintain, review, update and amend Departmental Delegations of Authority.

(9) Administer the Department's management review program. This authority includes the development and promulgation of Departmental directives regulating the management review function.

(10) Develop, design, install and revise systems, processes, work methods, and techniques, and undertake other system engineering efforts to improve the management and operational effectiveness of the USDA.

(11) Authorize organizational changes which occur in:

(i) Departmental organizations:

(*a*) Service or office.

(*b*) Division (or comparable component).

(*c*) Branch (or comparable component in Departmental Centers, only).

(ii) Field organizations:

(*a*) First organizational level.

(*b*) Next lower organizational level—required only for those types of field installations where the establishment, change in location, or abolition of same, requires approval in accordance with 1 AR 673.

(12) Administer the Department's operations review and analysis program. This includes the authority to:

(i) Set operations review and analysis policies, programs, plans, and procedures for the Department, and

(ii) Conduct operations reviews and analyses of Departmental and agency activities. These reviews will provide coordinated appraisals of Departmental and agency operations with respect to their effectiveness, relevance, need, and efficiency.

(13) Develop comprehensive long-range program plans.

(14) Administer the Department's program evaluation system; maintain an integrated multi-year programming and budgeting structure; and monitor performance of agencies in meeting budgeting targets and objectives.

(15) Review and approve exemptions for Department of Agriculture contracts, subcontracts, grants, subgrants, agreements, subagreements, loans and subloans from the requirements of the Clean Air Act, as amended (42 U.S.C. 1857 et seq.), the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251 et seq.), and Executive Order 11738 when he determines that the paramount interest of the United States so requires as provided in the above acts and Executive Order and the regulations of the Environmental Protection Agency (40 CFR 15.5).

(16) Act as Acquisition Executive in USDA as defined in OMB Circular No. A-109: Major System Acquisitions. In this capacity he will assure that OMB Circular No. A-109 is effectively implemented in USDA and ensure that the management objectives of the Circular are realized. Also, he will have authority to:

(i) designate the program manager for each major system acquistion, and

(ii) designate any departmental acquisition as a major system acquisition under A-109.

* * * * *

(f) *Related to committee management.* (1) Serve as the Department's Committee Management Officer and establish and maintain departmentwide policies and procedures for the management of committees. This delegation includes the authority to:

(i) Consult with the Office of Management and Budget prior to the establishment or reestablishment of advisory committees.

(ii) Approve and sign the written certification that creation of the advisory committee is in the public interest and provide for the publication of such certification in the FEDERAL REGISTER, along with a description of the nature and purpose of the advisory committee, following the Office of Management and Budget's approval of the establishment of the committee.

(iii) Approve and sign the notice of renewal of advisory committees for publication in the FEDERAL REGISTER, following the Office of Management and Budget's occurrence in the renewal of the committees.

(iv) Assign responsibility for preparation of timely notice of meetings for publication in the FEDERAL REGISTER.

(v) Approve charters for national advisory committees when in a format other than a Secretary's memorandum.

(2) Establish and reestablish regional, state, and local advisory committees for activities under his authority. This authority may not be redelegated.

* * * * *

14. Section 2.28 is amended to read as follows:

§ 2.28 Reservations of authority.

The following authorities are reserved to the Secretary of Agriculture:

(a) *Related to budget, planning and evaluation.* Final approval of the Department's program and financial plans.

(b)-(c) [Reserved].

(d) *Related to statistical reporting.* (1) Final approval and issuance of the monthly crop report (7 U.S.C. 411a).

(2) Final action on rules and regulations for the Crop Reporting Board.

15. A new § 2.29 is added to read as follows:

§ 2.29 Delegations of authority to the Director, Office of Congressional and Public Affairs.

The following delegations of authority are made by the Secretary of Agriculture to the Director, Office of Congressional and Public Affairs:

(a) *Related to congressional affairs.* (1) Exercise responsibility for coordination of all Congressional matters in the Department.

(2) Maintain liaison with the Congress and the White House on legislative matters of concern to the Department.

(b) *Related to public affairs.* (1) Advise and counsel general officers on public affair matters of concern to the Department.

Subpart D—Delegations of Authority to Other General Officers and Agency Heads

16. Section 2.33 is revoked and the following substituted in lieu thereof:

§ 2.33 Delegations of authority to the Inspector General.

The following delegations of authority are made by the Secretary of Agriculture to the Inspector General:

(a) Advise the Secretary and general officers in the planning, development and execution of Department policies and programs.

(b) Initiate, direct, or control all audit and investigation activities by and for the Department. This includes the authority to:

(1) Formulate audit and investigative policies, programs, plans, and procedures within the Department.

(2) Set standards and approve the use of organizations outside the Department for audit and investigative services in connection with USDA programs.

(c) Provide audit services pertaining to the Department, all of its constituent organizations, and all parties performing under contracts, grants, or other agreements with the Department. This includes the performance of scheduled inquiries and appraisals and such additional inquiries determined by the Inspector General to be necessary, and the reporting to appropriate officials of the Department of conditions disclosed with recommendations for action. These audits will provide timely, comprehensive,

independent information to determine whether—

(1) Policies, plans, systems, and procedures are adequate, conform to laws and regulations, and are being adhered to.

(2) Adequate fiscal, personnel, information, procurement, and property management systems are in operation.

(3) Programs and operations are effective, relevant, and necessary, and administered efficiently.

(d) Conduct all required audits of program results.

(e) Conduct investigations concerning operations of the Department, its employees, its constitutent organizations, and others under contract, grant, or agreement, with the Department; and to issue reports of facts from which allegations of violations and irregularities can be evaluated.

(f) Determine that OIG reports and those of an audit or investigative nature made by the General Accounting Office and other outside organizations have been reviewed and properly acted upon.

(g) Determine the proper areas of jurisdiction of audit and investigative functions as between OIG and other USDA agencies.

(h) Provide for physical protection of the Secretary.

(i) Provide liaison and coordination on audit and investigative matters between agencies within the Department and between the Department and other Government agencies including the General Accounting Office, Office of Management and Budget, Congressional Committees, Treasury Department, Department of Justice (except security program matters) and other Federal, State and local executive and legislative organizations.

(j) Promulgate departmental policies, standards, techniques, and procedures, and represent the Department in maintaining the security of physical facilities, self-protection, and warden systems.

17. A new § 2.34 is added to read as follows:

§ 2.34 Reservations of authority.

The following authority is reserved to the Secretary of Agriculture.

(a) Giving final approval to determinations by the Inspector General of the proper areas of jurisdiction of audit and investigative functions as between the OIG and other USDA agencies.

Subpart E—Delegations of Authority by the Deputy Secretary

18. The heading of Subpart E is amended to read as set forth above.

19. Section 2.46 as amended to read as follows:

§ 2.46 Director, Office of Intergovernmental Affairs.

(a) *Delegations.* Pursuant to § 2.13(c), the following delegations of authority are made by the Deputy Secretary to the Director, Office of Intergovernmental Affairs.

* * * * *

20. Section 2.47 is revoked and reserved as follows:

§ 2.47 [Revoked and reserved]

* * * * *

Subpart F—Delegations of Authority by the Assistant Secretary for Marketing Services

21. The hearing of Subpart F is amended to read as set forth above.

22. Section 2.49 is amended by revising the heading and text of paragraph (a) to read as follows:

§ 2.49 Deputy Assistant Secretary for Marketing Services.

(a) *Delegations.* Pursuant to § 2.17, subject to reservations in § 2.18, and subject to policy guidance and direction by the Assistant Secretary, the following delegation of authority is made by the Assistant Secretary for Marketing Services to the Deputy Assistant Secretary for Marketing Services, to be exercised only during the absence or unavailability of the Assistant Secretary:

(1) Perform all the duties and exercise all the powers which are now or which hereafter be delegated to the Assistant Secretary for Marketing Services.

23. Section 2.50 is amended by deleting the term "Assistant Secretary for Marketing and Consumer Services" in paragraphs (a) and (b) and substituting in lieu thereof the term "Assistant Secretary for Marketing Services"; and by revoking and reserving paragraphs (a) (3) (iv), (xviii), (xix), (xx), (xxvi), (xxviii), and (xxx) as follows:

§ 2.50 Administrator, Agricultural Marketing Service.

(a) * * *

(3) * * *

(iv) [Revoked and reserved]

* * * * *

(xviii)–(xx) [Revoked and reserved]

* * * * *

(xxvi) [Revoked and reserved]

* * * * *

(xxviii) [Revoked and reserved]

* * * * *

(xxx) [Revoked and reserved]

* * * * *

24. Section 2.51 is amended by deleting the term "Assistant Secretary for Marketing and Consumer Services" in paragraph (a) and substituting in lieu thereof the term "Assistant Secretary for Marketing Services"; by revoking and reserving paragraphs (a) (18), (19), and (20); by revising paragraphs (a) (28), (29), and (30); and by adding a new paragraph (a)(32) to read as follows:

§ 2.51 Administrator, Animal and Plant Health Inspection Service.

(a) *Delegations.* * * *

(18)–(20) [Revoked and reserved]

* * * * *

(28) The Agricultural Marketing Act of 1946, sections 203, 205, as amended (7 U.S.C. 1622, 1624), with respect to voluntary inspection and certification of animal byproducts; inspection, testing, treatment, and certification of technical animal fats; and voluntary inspection and certification of products for dogs, cats, and other carnivora.

(29) Talmadge-Aiken Act (7 U.S.C. 450) with respect to cooperation with States in control and eradication of plant and animal diseases and pests.

(30) Defense Production Act of 1950, as amended (50 U.S.C. App. 2061 et seq.), and the Federal Civil Defense Act of 1950, as amended (50 U.S.C. App. 2251 et seq.), relating to protection of livestock, poultry and crops and products thereof from biological and chemical warfare; and utilization or disposal of livestock and poultry exposed to radiation.

* * * * *

(32) The Endangered Species Act of 1973 (87 Stat. 884).

25. Section 2.53 is revoked and a new § 2.53 added to read as follows:

§ 2.53 Administrator, Federal Grain Inspection Service.

(a) *Delegations.* Pursuant to § 2.17 (c), the following delegations of authority are made by the Assistant Secretary for Marketing Services to the Administrator, Federal Grain Inspection Service:

(1) Exercise the functions of the Secretary of Agriculture contained in the Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1621–1627) relating to inspection and standardization activities related to grain.

(b) *Other responsibilities.* The Administrator, Federal Grain Inspection Service is responsible for the administration of the United States Grain Standards Act, as amended (7 U.S.C. 71–87h).

(c) *Reservations.* The following authority is reserved to the Assistant Secretary for Marketing Services:

(1) Exercise general direction and supervision of the Federal Grain Inspection Service.

§ 2.54 [Amended]

26. Paragraph (a) of § 2.54 is amended by deleting the term "Assistant Secretary for Marketing and Consumer Services" and substituting in lieu thereof the term "Assistant Secretary for Marketing Services."

§ 2.65 [Amended]

27. Section 2.65 is amended by deleting "2.17(d), 2.21(b)," in paragraph (a)(27) and substituting in lieu thereof "2.15 (b)"; by deleting "2.17(d)"; in paragraph (a)(28) and substituting in lieu thereof "2.15(b)"; by deleting the term "Agricultural Marketing Service" in pargraph (a)(28) and substituting in lieu thereof the term "Food Safety and Quality Service"; and by deleting the term "Assistant Secretary for Marketing and Consumer Services" in paragraph (a) (30) and substituting in lieu thereof the term "Assistant Secretary for Marketing Services".

§ 2.66 [Amended]

28. Section 2.66 is amended by deleting the phrase "the Director of Agricultural Economics in § 2.27(b)" in paragraph (a)(6) and substituting in lieu thereof

the phrase "the Director of Economics, Policy Analysis and Budget in § 2.27(c)."

§ 2.68 [Amended]

29. Section 2.68 is amended by deleting the term "Assistant Secretary for Marketing and Consumer Services" in paragraph (a)(2) and substituting in lieu thereof the term "Assistant Secretary for Food and Consumer Services"; by deleting the term "Director of Agricultural Economics" in paragraphs (a) (1) and (3) and substituting in lieu thereof the term "Director of Economics, Policy Analysis and Budget"; and by deleting the term "Assistant Secretary for Marketing and Consumer Services" in paragraph (a)(7) and substituting in lieu thereof the term "Assistant Secretary for Marketing Services."

Subpart J—Delegations of Authority by the Assistant Secretary for Administration

30. Section 2.75 is revoked and the following substituted in lieu thereof:

§ 2.75 Director, Office of Finance.

(a) *Delegations.* Pursuant to § 2.25 (b) and (d), the following delegations of authority are made by the Assistant Secretary for Administration to the Director, Office of Finance:

(1) Exercise general responsibility and authority for all matters related to the administration of the Department's accounting and finance operations including:

(i) Financial administration, including accounting and related activities.

(ii) Financial reporting.

(iii) Operating the central voucher payment service for the Department.

(iv) Operating the Department's central accounting system.

(v) Maintenance, development, and operation of a centralized automated system integrating personnel statistics and reporting, with payroll, budget, and accounting operations.

(2) Formulate and promulgate Departmental financial policies, procedures, and regulations.

(3) Provide staff assistance for the Secretary, general officers, and other Department and agency officials.

(4) Review financial aspects of agency operations.

(5) Represent the Department in contacts with the General Accounting Office, the Treasury Department, and other organizations or agencies on matters related to his responsibilities.

(6) The Director, Office of Finance is designated as the Department's Director of Finance.

(7) Provide management support services for the National Finance Center, and by agreements with agency heads concerned, provide such services for other USDA tenants housed in the same facility. As used herein, such management support services shall include:

(i) Personnel services, as lited in § 2.25 (e)(10), and organizational support services, with authority to take actions required by law or regulation to perform such services.

(ii) Procurement, property management, space management, communications, messenger, paperwork management, and related administrative services, with authority to take actions required by law or regulation to perform such services.

(8) Administer the Department's records, forms, reports, and directives management programs.

(9) Provide budget, accounting, and related financial management services, with authority to take action required by law or regulation to provide such services for working capital funds and general appropriated and trust funds for:

(i) The Secretary of Agriculture.

(ii) The general officers of the Department.

(iii) The offices and agencies reporting to the Assistant Secretary for Administration, and

(iv) Provide such of the above services, as may be agreed, for any other officers and agencies of the Department not included in paragraph (a)(9) (i), (ii), or (iii) of this section.

§ 2.81 [Revoked]

31. Section 2.81 is revoked as set forth above.

Subpart K—Delegations of Authority by the Director of Economics, Policy Analysis and Budget

32. The heading of Subpart K is amended to read as set forth above.

33. A new § 2.83 is added to read as follows:

§ 2.83 Deputy Director of Economics, Policy Analysis, and Budget.

(a) *Delegations.* Pursuant to § 2.27 subject to reservations in § 2.28 and subject to policy guidance and direction by the Director, the following delegation of authority is made by the Director of Economics, Policy Analysis and Budget to the Deputy Director of Economics, Policy Analysis and Budget, to be exercised only during the absence or unavailability of the Director:

(1) Perform all the duties and exercise all the powers which are now or which may hereafter be delegated to the Director of Economics, Policy Analysis and Budget.

34. A new § 2.84 is added to read as follows:

§ 2.84 Director, Office of Budget, Planning and Evaluation.

(a) *Delegations.* Pursuant to § 2.27(a), the following delegations of authority are made by the Director of Economics, Policy Analysis and Budget to the Director, Office of Budget, Planning, and Evaluation:

(1) Exercise general responsibility and authority for all matters related to the Department's budgeting affairs including:

(i) Budgetary administration, including all phases of acquisition, distribution, and control of funds.

(ii) Budgetary reporting.

(iii) Legislative reporting and related activities.

(2) Provide staff assistance for the Secretary, general officers, and other Department and agency officials.

(3) Formulate and promulgate Departmental budgetary, legislative, fiscal and committee management policies, procedures, and regulations.

(4) Review budgetary, legislative, and fiscal management aspects of agency operations and proposals.

(5) Represent the Department in contacts with the Office of Management and Budget, the General Accounting Office, the Treasury Department, Congressional Committees on Appropriations, and other organizations or agencies on matters related to his responsibility.

(6) The Director, Office of Budget, Planning and Evaluation is designated as the Department's Budget Officer.

(7) Administer the Department's management improvement program including the provision of assistance to agencies through management studies, organizational analysis and planning review; review the management and operating policies and processes, search for more economical approaches to the conduct of business and provide such other assistance as will aid in improving the management effectiveness, organization, and operation of the Department's programs.

(8) Maintain, review, update and amend Departmental Delegations of Authority.

(9) Administer the Department's Management Review Program. This authority includes the development and promulgation of Departmental directives regulating the management review function.

(10) Develop, design, install and revise systems, processes, work methods, and techniques, and undertake other system engineering efforts to improve the management and operational effectiveness of the USDA.

(11) Authorize organizational changes which occur in:

(i) Departmental organization:

(a) Service or office.

(b) Division (or comparable component).

(c) Branch (or comparable component in Departmental Centers, only).

(ii) Field organizations:

(*a*) First organizational level.

(*b*) Next lower organizational level—required only for those types of field installations where the establishment, change in location, or abolition of same requires approval in accordance with 1 AR 673.

(12) Administer the Department's operations review and analysis program. This includes the authority to:

(i) Set operations review and analysis policies, programs, plans, and procedures for the Department, and

(ii) Conduct operations reviews and analyses of Departmental and agency activities. These reviews will provide coordinated appraisals of Departmental and agency operations with respect to their effectiveness, relevance, need, and efficiency.

(13) Develop comprehensive long-range program plans.

(14) Administer the Department's program evaluation system; maintain an integrated multi-year programming and

budgeting structure; and monitor performance of agencies in meeting budgeting targets and objectives.

(15) Review and approve exemptions for Department of Agriculture contracts, subcontracts, grants, subgrants, agreements, subagreements, loans and subloans from the requirements of the Clean Air Act, as amended (42 U.S.C. 1857 et seq.), the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251 et seq.), and Executive Order 11738 when he determines that the paramount interest of the United States so requires as provided in the above acts and Executive Order and the regulations of the Environmental Protection Agency (40 CFR 15.5).

(16) Act as Acquisition Executive in USDA as defined in OMB Circular No. A-109: Major System Acquisitions. In this capacity he will assure that OMB Circular No. A-109 is effectively implemented in USDA and ensure that the management objectives of the Circular are realized. Also, he will have authority to:

(i) designate the program manager for each major system acquisition, and

(ii) designate any departmental acquisition as a major system acquisition under A-109.

(b) *Reservations.* The following authorities are reserved to the Director of Economics, Policy Analysis and Budget:

(1) Authorize organizational changes occurring in a department service or office which affect the overall structure of that service or office; i.e., requires a change to that service's or office's overall organization chart.

35. Paragraph (a) of § 2.85 is amended to read as follows:

§ 2.85 Administrator, Farmer Cooperative Service.

(a) *Delegations.* Pusuant to § 2.27(b), the following delegations of authority are made by the Director of Economics, Policy Analysis and Budget to the Administrator, Farmer Cooperative Service:

* * * * *

36. Paragraph (a) of § 2.86 is amended to read as follows:

§ 2.86 Administrator, Economic Research Service.

(a) *Delegations.* Pursuant to § 2.27(c), the following delegations of authority are made by the Director of Economics, Policy Analysis and Budget to the Administrator, Economic Research Service:

* * * * *

37. Paragraph (b) of § 2.86 is amended by deleting the term "Director of Agricultural Economics" and substituting in lieu thereof the term "Director of Economics, Policy Analysis and Budget".

38. Paragraph (a) of § 2.87 is amended to read as follows:

§ 2.87 Administrator, Statistical Reporting Service.

(a) *Delegations.* Pursuant to § 2.27(d), subject to reservations in § 2.28(d), the following delegations of authority are made by the Director of Economics, Policy Analysis and Budget to the Administrator, Statistical Reporting Service:

* * * * *

39. Paragraph (a) of § 2.88 is amended to read as follows:

§ 2.88 Director, Economic Management Support Center.

(a) *Delegations.* Pursuant to § 2.27(e), the following delegations of authority are made by the Director of Economics, Policy Analysis and Budget to the Director, Economic Management Support Center:

(1) Provide to the other agencies reporting to the Director of Economics, Policy Analysis and Budget management support services, as agreed upon by the agencies. As used herein, management support services include:

* * * * *

40. A new Subpart L is added to read as follows:

Subpart L—Delegations of Authority by the Assistant Secretary for Food and Consumer Services

41. New §§ 2.91 through 2.93 are added to read as follows:

§ 2.91 Deputy Assistant Secretary for Food and Consumer Services.

(a) *Delegations.* Pursuant to § 2.15, subject to reservations in § 2.16, and subject to policy guidance and direction by the Assistant Secretary, the following delegation of authority is made by the Assistant Secretary for Food and Consumer Services to the Deputy Assistant Secretary for Food and Consumer Services, to be exercised only during the absence or unavailability of the Assistant Secretary:

(1) Perform all the duties and exercise all the powers which are now or which may hereafter be delegated to the Assistant Secretary for Food and Consumer Services.

§ 2.92 Administrator, Food Safety and Quality Service.

(a) *Delegations.* Pursuant to § 2.15(a), the following delegations of authority are made by the Assistant Secretary for Food and Consumer Services to the Administrator, Food Safety and Quality Service:

(1) Exercise the functions of the Secretary of Agriculture contained in the Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1621–1627) relating to meat and poultry grading and standardization, grading and standardization of eggs and dairy products, standardization and inspection of fresh and processed fruit and vegetable products, grading and standardization and voluntary inspection of rabbits and edible products thereof, and voluntary inspection and certification of edible meat and other products.

(2) Exercise the functions of the Secretary of Agriculture contained in the following legislation:

(i) Egg Products Inspection Act (21 U.S.C. 1031–1056).

(ii) Act of May 23, 1908, regarding inspection of dairy products for export (21 U.S.C. 693).

(iii) Poultry Products Inspection Act, as amended (21 U.S.C. 451–470).

(iv) Federal Meat Inspection Act, as amended, and related legislation (21 U.S.C. 601–624, 641–645, 661, 671–680, 691–692, 694–695.

(v) Talmadge-Aiken Act (7 U.S.C. 450) with respect to cooperation with States in administration of the Federal Meat Inspection Act and the Poultry Products Inspection Act.

(vi) Humane Slaughter Act (7 U.S.C. 1901–1906).

(vii) Section 32 of the Act of August 24, 1935 (7 U.S.C. 612c), as supplemented by the Act of June 28, 1937 (15 U.S.C. 713c) and related legislation except functions which are otherwise assigned relating to the domestic distribution and donation of agricultural commodities and products thereof following the procurement thereof.

(viii) Procurement of agricultural commodities and other foods under section 6 of the National School Lunch Act of 1946, as amended (42 U.S.C. 1755).

(ix) In carrying out the procurement functions in (vii) and viii) above, the Administrator, Food Safety and Quality Service shall, to the extent practicable, use the commodity procurement, handling, payment and related services of the Agricultural Stabilization and Conservation Service.

(x) Defense Production Act of 1950, as amended (50 U.S.C. App. 2061 et seq.), and the Federal Civil Defense Act of 1950, as amended (50 U.S.C. App. 2251 et seq.), relating to wholesomeness of meat and poultry and products thereof, and inspection of eggs and egg products.

§ 2.93 Administrator, Food and Nutrition Service.

(a) *Delegations.* Pursuant to § 2.15 (b), subject to reservations in § 2.16(b), the following delegations of authority are made by the Assistant Secretary for Food and Consumer Services to the Administrator, Food and Nutrition Service:

(1) Administer the following legislation:

(i) The Food Stamp Act of 1964, as amended (7 U.S.C. 2011–2025).

(ii) National School Lunch Act of 1946, as amended (42 U.S.C. 1751–1763), except procurement of agricultural commodities and other foods under section 6 thereof.

(iii) Child Nutrition Act of 1966, as amended (42 U.S.C. 1771–1785).

(2) Administer those functions relating to the distribution and donation of agricultural commodities and products thereof under the following legislation:

(i) Clause (3) of section 416, Agricultural Act of 1949, as amended (7 U.S.C. 1431), except the estimate and announcement of the types and varieties of food commodities, and the quantities thereof, to become available for distribution thereunder.

(ii) Section 709 of the Food and Agriculture Act of 1965, as amended (7 U.S.C. 1446a-1).

(iii) Section 32 of the Act of August 24, 1935, as amended (7 U.S.C. 612c), as supplemented by the Act of June 28, 1937 (15 U.S.C. 713c), and related legislation.

(iv) Section 9 of the Act of September 6, 1958 (7 U.S.C. 1431b).

(v) Section 210 of the Agricultural Act of 1956 (7 U.S.C. 1859), except with respect to donations to Federal penal and correctional institutions.

(vi) Section 402 of the Mutual Security Act of 1954, as amended (22 U.S.C. 1922).

(vii) Section 707 of the Older Americans Act of 1965, as amended (42 U.S.C. 3045f).

(viii) Sections 203 and 238 of the Disaster Relief Act of 1970 (42 U.S.C. 4413, 4457).

(3) Administer those functions relating to the distribution of food coupons under section 238 of the Disaster Relief Act of 1970 (42 U.S.C. 4457).

(4) In connection with the functions assigned in paragraphs (a)(1), (2), and (3) of this section, relating to the distribution and donation of agricultural commodities and products thereof and food coupons to eligible recipients, authority to determine the requirements for such agricultural commodities and products thereof and food coupons to be so distributed.

(5) Receive donation of food commodities under clause (3) of section 416 of the Agricultural Act of 1949, as amended, and section 709 of the Food and Agricultural Act of 1965, as amended.

(6) Authorize defense emergency food stamp assistance.

(5 U.S.C. 301 and Reorganization Plan No. 2 of 1953.)

For Subparts A, C, and D, dated: July 5, 1977.

BOB BERGLAND,
Secretary of Agriculture.

For Subpart E, dated: July 5, 1977.

JOHN C. WHITE,
Deputy Secretary of Agriculture.

For Subpart F, dated: June 27, 1977.

ROBERT H. MEYER,
Assistant Secretary for Marketing Services.

For Subpart J, dated: June 27, 1977.

J. FRED KING,
Acting Assistant Secretary for Administration.

For Subpart K, dated: June 28, 1977.

HOWARD W. HJORT,
Director of Economics, Policy Analysis and Budget.

For Subpart L, dated: June 28, 1977.

CAROL TUCKER FOREMAN,
Assistant Secretary for Food and Consumer Services.

[FR Doc.77-19628 Filed 7-8-77;8:45 am]

CHAPTER XVIII—FARMERS HOME ADMINISTRATION, DEPARTMENT OF AGRICULTURE

SUBCHAPTER B—LOANS AND GRANTS PRIMARILY FOR REAL ESTATE PURPOSES

[FmHA Instruction 443.2]

PART 1821—FARM PURCHASE AND DEVELOPMENT LOANS TO INDIVIDUALS

Subpart B—Soil and Water Loans

SECURITY REQUIREMENTS

AGENCY: Farmers Home Administration, USDA

ACTION: Final rule.

SUMMARY: The Farmers Home Administration (FmHA) amends its regulations to remove the requirement that indebtedness on land which is not serving as security for a soil and water loan count towards the total indebtedness limit of such loan and to increase the maximum limit for a soil and water loan secured by nonreal estate items. The amendment is necessitated by the need for more soil and water loan assistance and the increased cost of equipment.

EFFECTIVE DATE: July 11, 1977. Comments received on or before August 10, 1977, will be considered for amendment purposes.

ADDRESSES: Submit written comments to the Office of the Chief, Directives Management Branch, Farmers Home Administration, U.S. Department of Agriculture, Room 6316, South Building, Washington, D.C. 20250. All written comments made pursuant to this notice will be available for public inspection at the address given above.

FOR FURTHER INFORMATION CONTACT:

Reid Robison—202-447-4572.

SUPPLEMENTARY INFORMATION: The Farmers Home Administration amends §§ 1821.55(c)(1) and 1821.56(a)(1) and (2) and § 1821.60 of Subpart B of Part 1821, Chapter XVIII, Title 7, Code of Federal Regulations (31 FR 14165, redesignated at 32 FR 717 and as amended). This amendment will remove the requirement that indebtedness on portions of the applicant's land, which are not, or will not serve as security for the soil and water loan, count towards the total indebtedness limit of $225,000, and to increase the limitation from a maximum of $25,000 to $60,000 for the amount that can be loaned when only nonreal estate items serve as security for the soil and water loan.

This will make it possible for more farmers, in need of soil and water loans and who are otherwise eligible, to meet the soil and water eligibility total indebtedness limitation. Increased costs of irrigation equipment and its corresponding value as security necessitates increasing to $60,000, the limitation for loans secured only by nonreal estate items. Both of these changes are especially important to farmers needing irrigation water to compensate for drought conditions now prevailing in many areas.

It is the policy of this Department that rules relating to public property, loans, grants, benefits, or contracts, shall be published for comment notwithstanding the exemption in 5 U.S.C. 553 with respect to such rules. This amendment, however, is not published for proposed rulemaking since the change is needed to combat the present drought and any delay would be contrary to the public interest. Accordingly, as amended, §§ 1821.55(c)(1), 1821.56(a)(1) and (2) and § 1821.60 read as follows:

§ 1821.55 Special requirements.

* * * * *

(c) *Loan limitations.* * * *

(1) The loan would cause the unpaid indebtedness against the farm, exclusive of that portion which is not or will not be security, and/or other security to exceed $225,000 or the value of the farm and/or the other security, whichever is less. In addition, the SW loan will not be approved if only nonreal estate items will serve as security, and the borrower's unpaid indebtedness against the nonreal estate security plus the amount of the loan will exceed $60,000. The unpaid indebtedness in either case outlined above includes all FmHA's and any other lender's principal and any past-due interest on the existing and proposed security; or

* * * * *

§ 1821.56 Security requirements.

(a) *General.* * * *

(1) Any loan of more than $60,000 and any loan to be paid in more than 20 years from the date of the note will be secured by a mortgage on the applicant's farm unless an exception is made in accordance with paragraph (b)(1) of this section. Usually loans of more than $60,000 will be secured only by real estate. When necessary to supplement the applicant's equity in the farm or to facilitate servicing the loan, a mortgage also may be taken on other nonfarm real estate or on chattel or other property owned by the applicant.

(2) A loan of not more than $60,000 to be paid in not more than 20 years from date of the note may be secured by:

* * * * *

§ 1821.60 Subsequent soil and water loans.

A subsequent soil and water loan may be made to a borrower who currently owes a soil and water (including water facilities) debt for the same purposes and under the same conditions as an initial loan subject to applicable provisions of § 1821.23; except that the borrower's total unpaid indebtedness of soil and water (including water facilities) loans computed in accordance with § 1821.55(c) will not exceed $60,000 unless the loan is secured by real estate.

(7 U.S.C. 1989; delegation of authority by the Secretary of Agriculture, 7 CFR 2.3; delegation of authority by the Assistant Secretary for Rural Development, 7 CFR 2.70.)

NOTE.—The Farmers Home Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 and OMB Circular A-107.

Dated: June 28, 1977.

GORDON CAVANAUGH,
Administrator,
Farmers Home Administration.

[FR Doc.77-19613 Filed 7-8-77;8:45 am]

[FmHA Instruction 442.7]

PART 1823—ASSOCIATION LOANS AND GRANTS—COMMUNITY FACILITIES, DEVELOPMENT, CONSERVATION, UTILIZATION

Subpart G—Grants for Preparation of Comprehensive Area Plans for Water and Sewer Systems

DELETION

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration deletes Subpart G, Part 1823, Chapter XVIII, Title 7, Code of Federal Regulations (36 FR 17029). The provisions of this regulation are no longer necessary. The intent of this action is to remove unnecessary regulations in order to accomplish an overall simplification of the Code of Federal Regulations.

EFFECTIVE DATE: July 11, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Charles B. Hart (202-447-6499).

(7 U.S.C. 1989, delegation of authority by the Secretary of Agriculture, 7 CFR 2.23, delegation of authority by the Assistant Secretary for Rural Development, 7 CFR 2.70.)

NOTE.—The Farmers Home Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 and OMB Circular A-107.

Dated: June 23, 1977.

GORDON CAVANAUGH,
Administrator,
Farmers Home Administration.

[FR Doc.77-19612 Filed 7-8-77;8:45 am]

Title 10—Energy

CHAPTER I—U.S. NUCLEAR REGULATORY COMMISSION

PART 70—SPECIAL NUCLEAR MATERIAL

NOTE.—The following document was originally published on Friday, July 8, 1977. It is being republished here in order to meet Assigned-Day-of-the-Week publication requirements.

AGENCY: U.S. Nuclear Regulatory Commission (NRC).

ACTION: Final rule.

SUMMARY: As a result of a request from the National Aeronautics and Space Administration to export special nuclear material to the Soviet Union for use in a joint space experiment, and in order to facilitate U.S. participation in international programs pursuant to intergovernmental cooperative agreements, NRC is amending its regulations to exempt U.S. Government agencies from the requirements for an export license for small quantities of special nuclear material intended for use in U.S. Government sponsored or cooperative activities in foreign countries.

EFFECTIVE DATE: July 8, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. R. Neal Moore, Office of International Programs, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555 telephone: (301) 492-7984.

SUPPLEMENTARY INFORMATION: Section 57d. of the Atomic Energy Act, 42 U.S.C. 2092, authorizes the Commission to "exempt certain classes or quantities of special nuclear material or kinds of uses or users from the requirements for a license * * * when it makes a finding that the exemption * * * would not be inimical to the common defense and security and would not constitute an unreasonable risk to the health and safety of the public." To date the Commission has not exercised this authority.

Recently, the Commission has received a request from the National Aeronautics and Space Administration to export to the USSR 0.65 grams of high-enriched uranium (special nuclear material) for use in a joint US/USSR space experiment to take place soon pursuant to the US/USSR Space Cooperation Agreements of 1972 and 1977. Under present regulations, the Commission is precluded from issuing an export license for this material because there is no agreement for cooperation with the USSR pursuant to section 123 of the Atomic Energy Act. Recently, another export by Energy Research Development Administration to the USSR of 2.0 milligrams of plutonium-244, for a scientific experiment with U.S. scientists participating, has been withheld in the absence of an agreement for cooperation.

Therefore, the Commission having found that the exemption will not be inimical to the common defense and security and would not constitute an unreasonable risk to the health and safety of the public, has decided to exercise the authority granted under sections 53, 54, and 57d. of the Act to facilitate United States participation in international programs pursuant to intergovernmental cooperative agreements.

In view of the urgency of the export proposed and the insignificant amounts of the material involved, and the intergovernmental cooperative agreement under which this experiment and others would take place, the Commission has found that the customary 30-day notice of proposed rulemaking, and public procedures thereon, are impracticable and unnecessary and good cause exists why this regulation should be made effective upon publication in the FEDERAL REGISTER (July 8, 1977).

Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, and the Energy Reorganization Act of 1974, as amended, and sections 552 and 553 of Title 5 of the United States Code, the following amendment to Title 10, Chapter 1, Code of Federal Regulations, Part 70 is published as a document subject to codification and effective upon publication in the FEDERAL REGISTER (July 8, 1977).

A new § 70.15 is added to read as follows:

§ 70.15 Intergovernmental cooperative activities.

Any U.S. Government agency is exempt from the regulations in this part and from the requirements for a license set forth in section 53 of the Atomic Energy Act to the extent that such agency exports up to three (3) grams of any type of special nuclear material to be used for or in support of activities authorized by intergovernmental cooperative agreements between the U.S. and a foreign nation, group of nations, or international organization, and such agency is required to notify the Nuclear Regulatory Commission of the destination and purpose of the export.

(Secs. 53, 161, Pub. L. 83-703, 68 Stat. 930, as amended, 948, as amended (42 U.S.C. 2073, 2201); Sec. 57d., Pub. L. 93-377, 88 Stat. 475 (42 U.S.C. 2077); Sec. 201, Pub. L. 93-438, 88 Stat. 1243 (42 U.S.C. 584).)

Dated at Washington, D.C., this 1st day of July, 1977.

For the U.S. Nuclear Regulatory Commission.

SAMUEL J. CHILK,
Secretary for the Commission.

[FR Doc.77-19828 Filed 7-7-77;8:45 am]

Title 13—Business Credit and Assistance

CHAPTER III—ECONOMIC DEVELOPMENT ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 318—COMMUNITY EMERGENCY DROUGHT RELIEF PROGRAM

Eligible Applicants

AGENCY: Economic Development Administration, Department of Commerce.

ACTION: Final rule.

SUMMARY: This amendment clarifies the identity of eligible applicants under this program. It ensures that water districts organized as profit-making entities are excluded from participation. It also makes certain format changes.

DATES: Effective date: July 11, 1977. Comments by: August 10, 1977.

ADDRESSES: Send comments to: Assistant Secretary for Economic Development, U.S. Department of Commerce, Room 7800B, Washington, D.C. 20230.

FOR FURTHER INFORMATION CONTACT:

James F. Marten, U.S. Department of Commerce, Room 7009, Washington, D.C. 20230; 202-377-5441.

SUPPLEMENTARY INFORMATION: Because this amendment relates to an EDA grant program, it is exempted from the procedures described in Section 553 of the Administrative Procedure Act (5 U.S.C. 553). However, in the spirit of the public policy set forth in that Act, interested persons may submit written suggestions regarding this amendment to the above address.

NOTE.—EDA has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Accordingly, 13 CFR Part 318 is amended by revising § 318.4 to read as follows:

§ 318.4 Eligible applicants.

The following entities located in areas designated under § 318.3 are eligible to apply for assistance under this part:

(a) States;

(b) Political subdivisions of States with populations of 10,000 or more persons;

(c) Indian tribes;

(d) Public or private non-profit corporations; and

(e) Water districts except for those which are organized as profit-making bodies.

(Sec. 701, Pub. L. 89-136, 79 Stat. 570 (42 U.S.C. 3211); Pub. L. 95-31, 91 Stat. 169 (42 U.S.C. 5184); Department of Commerce Organization Order 10-4 (September 30, 1975) as amended, 40 FR 56702.)

Dated: July 1, 1977.

ROBERT T. HALL,
Assistant Secretary for Economic Development.

[FR Doc.77-19827 Filed 7-8-77;8:45 am]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 10492, Amdt. SFAR 26-10]

PART 21—CERTIFICATION PROCEDURES FOR PRODUCTS AND PARTS

Approval of Import Aircraft Engines, Propellers, Materials, Parts, and Appliances; Continuation

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment extends the effectivity of a current Special Federal Aviation Regulation which provides for the interim approval of certain aircraft engines, propellers, materials, parts, and appliances that are manufactured outside the United States. The extension is needed to facilitate the completion of the renegotiation of a related bilateral agreement with Japan.

DATE: Effective July 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Raymond E. Ramakis, Regulatory Projects Branch (AFS-940), Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591, telephone (202-755-8716).

SUPPLEMENTARY INFORMATION: SFAR 26 provides for approvals on a selective basis of aircraft engines, propellers, materials, parts and appliances manufactured in a foreign country with which the United States has an agreement for the acceptance of powered aircraft for export and import. SFAR 26 was adopted to provide these approvals on an interim basis pending appropriate amendments to certain of those bilateral agreements where such amendments are in the mutual interest of the United States and the foreign country involved. The originally established termination date of March 1, 1972, for SFAR 26 was extended by Amendment SFAR 26-1 to September 1, 1972, by Amendment SFAR 26-2 to January 1, 1973, by Amendment SFAR 26-3 to July 1, 1973, by Amendment SFAR 26-4 to January 1, 1974, by Amendment SFAR 26-5 to July 1, 1974, by Amendment SFAR 26-6 to January 1, 1975, by Amendment SFAR 26-7 to July 1, 1975, by Amendment SFAR 26-8 to July 2, 1976, and further extended by Amendment SFAR 26-9 to July 1, 1977.

The FAA has been advised that the continuing negotiations to amend the Japanese bilateral agreement will not be concluded by the July 1, 1977, termination date of SFAR 26. The reasons which justified the adoption of SFAR 26 still exist, with respect to Japanese aircraft components and subassemblies. In view of the pending negotiations, the FAA believes that it is in the public interest to extend the termination date of SFAR 26 from July 1, 1977, to October 1, 1977, for Japanese aircraft components and subassemblies. However, the termination date of SFAR 26 will not be further extended.

Since this amendment continues in effect the provisions of a currently effective Special Federal Aviation Regulation and imposes no additional burden on any person, I find that notice and public procedure hereon are unnecessary and it may be made effective in less than 30 days.

The principal authors of this document are Mr. C. A. Christie, Flight Standards Service, and Mr. S. Podberesky, Office of the Chief Counsel.

ADOPTION OF AMENDMENT

Accordingly, effective July 1, 1977, the last paragraph of Special Federal Aviation Regulation No. 26, published in the FEDERAL REGISTER (35 FR 12748) on August 12, 1970, as amended by Amendments SFAR 26-1, SFAR 26-2, SFAR 26-3, SFAR 26-4, SFAR 26-5, SFAR 26-6, SFAR 26-7, SFAR 26-8, and SFAR 26-9 published in the FEDERAL REGISTER (37 FR 4325, 37 FR 16789, 37 FR 28276, 38 FR 17491, 38 FR 35441, 39 FR 25228, 40 FR 2576, 40 FR 28603, and 41 FR 27954) on March 2, 1972, August 19, 1972, December 22, 1972, July 2, 1973, December 28, 1973, July 9, 1974, January 14, 1975, July 8, 1975, and July 8, 1976, respectively, is further amended by striking out the words "July 1, 1977" and inserting the words "October 1, 1977" in place thereof, and by adding a new paragraph 6, that reads: "After July 1, 1977, this special regulation applies only to aircraft components and subassemblies manufactured in Japan."

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended, (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on July 1, 1977.

QUENTIN S. TAYLOR,
Acting Administrator.

[FR Doc.77-19692 Filed 7-8-77;8:45 am]

[Docket No. 77-CE-10-AD; Amendment 39-2960]

PART 39—AIRWORTHINESS DIRECTIVES

Beech Models 60, A60 and B60 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD) that requires installation of drain holes in the fuselage of certain Beech Models 60, A60 and B60 airplanes to preclude the accumulation of water that can subsequently freeze during flight and prevent or restrict movement of the elevator controls, which, in turn, could result in the aircraft becoming difficult for the pilot to control.

EFFECTIVE DATE: August 18, 1977. Compliance: Required within 100 hours time-in-service after the effective date of this AD.

ADDRESSES: Beechcraft Service Instructions No. 0741-103, Revision I, may be obtained from Beech Aircraft Corporation, Commercial Service Department, 9709 East Central, Wichita, Kansas 67201. A copy of the Service Instructions cited above is contained in the Rules Docket, Room 916, 800 Independence Avenue, Southwest, Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

William R. Schroeder, Aerospace Engineer, Engineering and Manufacturing Branch, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106; telephone (816-374-3446).

SUPPLEMENTARY INFORMATION: On May 2, 1977, the FAA proposed to amend Part 39 of the Federal Aviation Regulations (14 CFR Part 39) by adding

a new AD applicable to certain Beech Models 60, A60 and B60 airplanes (42 FR 22172). The AD requires installation of five drain holes and valves in the fuselage. Beechcraft Service Instructions No. 0741-103, Revision I, pertains to this AD.

Interested persons were invited to participate in this rule making by submitting written comments on the proposal to the FAA. No comments were received.

This AD is necessary because there have been reports of water collecting in the fuselage, freezing, and thereby restricting movement of elevator controls on the above mentioned airplanes. These reports show that water seeps into the fuselage around the cabin door while aircraft are on the ground and collects around the elevator control cables just aft of the wing rear spar carry through structure in the bottom of the fuselage. When aircraft encounter low temperatures at high altitudes, the water freezes and prevents or restricts elevator movement. The FAA has concluded that lack of adequate drain holes on inservice airplanes is an unsafe condition. Since the conditions described herein is likely to exist or develop in other airplanes of the same type design, the AD is being issued as proposed in the Notice.

DRAFTING INFORMATION

The principal authors of this document are: William R. Schroeder, Flight Standards Division, Central Region, and John L. Fitzgerald, Jr., Office of the Regional Counsel, Central Region.

ADOPTION OF THE AMENDMENT

Accordingly and pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR Sec. 39.13) is amended by adding the following new AD:

BEECH. Applies to Models 60 (Serial Numbers P-3 thru P-126 except P-123), A60 (Serial Numbers P-123, P-127 thru P-246), and B60 (Serial Numbers P-247 thru P-346) airplanes certified in all categories.

Compliance: Required as indicated, unless already accomplished.

To prevent collection of water in the bottom of the fuselage, subsequent freezing of the water and resulting restriction of elevator control, within the next 100 hours' time in service after the effective date of this AD, accomplish the following:

A. Locate and drill five (5) .250 inch diameter drain holes and install five (5) Beech P/N 50-420082-3 drain seals in the bottom of the fuselage in accordance with Beechcraft Service Instructions No. 0741-103, Rev. I, or later approved revisions.

B. Any equivalent method of compliance with this AD must be approved by the Chief, Engineering and Manufacturing Branch, FAA, Central Region.

This amendment becomes effective August 18, 1977.

(Secs. 313(a), 601 and 603 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421 and 1423); Sec. 6(c) Department of Transportation Act (49 U.S.C. 1655 (c)) and Sec. 11.89 of the Federal Aviation Regulations (14 CFR Sec. 11.89).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Kanas City, Missouri on July 1, 1977.

JOHN E. SHAW,
Acting Director, Central Region.

[FR Doc.77-19701 Filed 7-8-77;8:45 am]

[Docket No. 16996; Amdt. 39-2963]

PART 39—AIRWORTHINESS DIRECTIVES

British Aircraft Corporation BAC 1-11 200 and 400 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new airworthiness directive (AD) which requires repetitive inspections and repair, as necessary, of the flap structure on certain British Aircraft Corporation BAC 1-11 airplanes to prevent possible flap failures due to fatigue cracks.

DATES: Effective July 21, 1977. Compliance schedule—As prescribed in the body of the AD.

ADDRESSES: The applicable service bulletin may be obtained from British Aircraft Corporation, Inc., 399 Jefferson Davis Highway, Arlington, Virginia 22202, telephone (703-979-1400).

A copy of the service bulletin is contained in the Rules Docket, Rm. 916, 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

D.C. Jacobsen, Chief, Aircraft Certification Staff, AEU-100, Europe, Africa, and Middle East Region, Federal Aviation Administration, c/o American Embassy, Brussels, Belgium, telephone 513.38.30.

SUPPLEMENTARY INFORMATION: There has been a report of a flap structural failure on a BAC 1-11 airplane during a landing approach that resulted in the loss of the outboard section of the flap and in the remaining inboard section swinging up into, and causing considerable damage to, the fuselage. Investigation revealed the failure to be a fatigue type that originated where previous flap skin cracks had been repaired and where subsequent cracking of the flap spar had progressed through the entire web of the spar resulting in complete chordwise failure of the flap surface. Inspection of the operator's fleet disclosed a number of other BAC 1-11 airplanes with crack damage of the type that caused the reported failure.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

The principal authors of this document are Mr. J. F. Karnowski, Europe, Africa and Middle East Region, Mr. E. S. Newberger, Flight Standards Service, and Mr. K. May, Office of the Chief Counsel.

ADOPTION OF THE AMENDMENT

§ 39.13 [Amended]

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following Airworthiness Directive:

BRITISH AIRCRAFT CORPORATION. Applies to BAC 1-11 200 and 400 series airplanes certificated in all categories, and equipped with any of the following flap assemblies:

Inboard Flap Assy. AB09 A1/2 or AK09 A121/2 or AK09 A1579/80 or AP09 A1/2 or AP09 A501/2 or EN09 A1/2.

Center Flap Assy. AB09 A3/4 or AK09 A123/4 or AP09 A3/4 or EN09 A3/4.

Outboard Flap Assy. AB09 A5/6 or AK09 A125/6 or AP09 A5/6 or EN09 A5/6.

Compliance is required as indicated.

To detect cracks and prevent possible failure of the flap structure, accomplish the following:

(a) For airplanes equipped with flap assemblies (R/H and L/H) which do not incorporate Modification 57-PM2961, the following inspections apply:

(1) Upon accumulating 20,000 landings on the flap assemblies or within 50 landings after the effective date of this AD, whichever occurs later, unless accomplished within the preceding 200 landings for inboard flap assemblies or 950 landings for center and outboard flap assemblies, visually inspect the top surface skin panels or all flaps for cracks, paying particular attention to the rivet attachment areas.

(2) Repeat the inspection of paragraph (a)(1) of this AD at intervals from the last inspection not to exceed 250 landings for the inboard flaps and 1,000 landings for the center and outboard flaps.

(3) If, during an inspection required by paragraph (a)(1) or (a)(2) of this AD, signs of movement or distress are found at a group of rivets, within 500 landings, unless already accomplished within the preceding 500 landings, conduct an X-ray or visual inspection of the flap internal structure in accordance with paragraph 2.1.1 of the section titled "Accomplishment Instructions" of BAC Alert Service Bulletin 57-A-PM5381, Issue 2, dated July 5, 1976 (hereinafter referred to as BAC ASB 57-A-PM5381), or an FAA-approved equivalent.

(4) Upon accumulating 20,000 landings on the inboard flaps or within 100 landings after the effective date of this AD, whichever occurs later, unless already accomplished within the preceding 3,400 landings, conduct an X-ray inspection of the flap structure in accordance with paragraph 2.1.3 of BAC ASB 57-A-PM5381, or an FAA-approved equivalent.

(5) Repeat the X-ray inspection of the flap structure of the inboard flaps required by paragraph (a)(4) of this AD at intervals not to exceed 3,500 landings from the last inspection.

(6) If an inspection required by paragraph (a)(4) or (a)(5) of this AD confirms that the internal structure is free of cracks, and if the skin panels are free of cracks, the intervals of 250 landings for the repetitive visual inspection of the skin panels of the inboard flaps required by paragraph (a)(2)

of this AD may be increased to 1,200 landings.

(7) Upon accumulating 23,000 landings on the center and outboard flaps, or within 500 landings after the effective date of this AD, whichever occurs later, unless already accomplished, conduct an X-ray inspection of the flap structure in accordance with the instructions contained in paragraph 2.1.6 of BAC ASB 57-A-PM5381, or an FAA-approved equivalent.

(b) For airplanes equipped with flap assemblies (R/H and L/H) that incorporate Modifications 57-PM-1931 and 57-PM-2961, the following inspections apply:

(1) Upon accumulating 25,000 landings on the flap assemblies or within 1,000 landings after the effective date of this AD, whichever occurs later, unless already accomplished, conduct an X-ray inspection of the flap structure in accordance with paragraph 2.2.1 of BAC ASB 57-A-PM5381, or an FAA-approved equivalent.

(2) Repeat the inspection required by paragraph (b)(1) of this AD, for the inboard flaps only, at intervals not to exceed 5,000 landings.

(c) For airplanes equipped with flap assemblies (R/H and L/H) that were originally manufactured to the standard of Modification 57-PM-2961, upon accumulating 25,000 landings on the flap assemblies, or within 1000 landings after the effective date of this AD, whichever occurs later, unless already accomplished, conduct an X-ray inspection of the flap structure in accordance with paragraph 2.3.1 of BAC ASB 57-A-PM5381, or an FAA-approved equivalent.

(d) If one or more cracks are found in the top skin panels during an inspection required by this AD, comply with the following as applicable:

(1) If skin panel cracks are found that do not exceed two inches in length (measured from the skin panel edge) and no more than three such cracks exist over the span of any one spar and no more than one crack at any rib station, the flap may continue in service provided that each crack is measured for propagation at intervals not to exceed 250 landings.

(2) If more than three skin panel cracks are found over the span of any one spar or more than one crack is found at any rib station, all of which measure less than two inches in length (measured from the skin panel edge), before further flight, accomplish temporary repairs in accordance with Figure 2A or 2B of BAC ASB 57-A-PM5381, or accomplish a repair in accordance with the BAC 1-11 Structural Repair Manual, Chapter 57-02-4, or an FAA-approved equivalent.

(3) If a skin panel crack is found that exceeds two inches in length (measured from the skin panel edge), before further flight, accomplish a repair in accordance with the BAC 1-11 Structural Repair Manual, Chapter 57-02-4, or an FAA-approved equivalent.

(4) If one or more skin cracks that do not exceed six inches in length are found along a rib flange rivet line, and providing not more than one crack exists at any one rib station and not more than two cracks are found on any one flap surface, before further flight, accomplish a temporary repair of the cracked area in accordance with Figure 3 of BAC ASB 57-A-PM5381, or accomplish a repair in accordance with BAC 1-11 Structural Repair Manual, Chapter 57-02-4, or an FAA-approved equivalent.

(5) If a skin crack that exceeds six inches in length is found along a rib flange rivet line or if more than two cracks of any length are found on any one flap surface, before further flight, accomplish a repair of the cracked areas in accordance with the BAC 1-11 Structural Repair Manual, Chapter 57-02-4, or an FAA-approved equivalent.

(6) If skin cracks are found emanating from beneath rubbing strips or external patches, before further flight, remove the rubbing strip or external patch and accomplish a repair in accordance with the criteria established in paragraph (d)(4) or (d)(5) of this AD as applicable.

(7) If temporary repairs are accomplished for cracked areas in the skin panels in compliance with paragraph (d)(2), (d)(4), or (d)(6) of this AD, within 15 landings after accomplishing the temporary repair, conduct an X-ray inspection of the internal structure of the flap in the area of the repair in accordance with paragraph 2.1.3 of BAC ASB 57-A-PM5381, or an FAA-approved equivalent. If the X-ray inspection confirms that the internal structure is free of cracks, the flap with temporary repairs incorporated may remain in service for a period not to exceed 1,200 landings at which time the temporary repairs must be replaced by repairs in accordance with the BAC 1-11 Structural Repair Manual, Chapter 57-02-4, or an FAA-approved equivalent.

(e) If one or more cracks are found in the flap spars as a result of an inspection required by this AD, the following apply:

(1) Except as provided in paragraph (e)(2) of this AD, before further flight, repair the cracked area of the spar in accordance with Figure 4 or Figure 5, or both, as applicable, of BAC ASB 57-A-PM5381, or an FAA-approved equivalent.

(2) If one or more cracks are found in the flanges of the flap spars but they have not progressed into the web of the spar, the flap assembly may remain in service for an additional 600 landings provided that, before further flight, a temporary repair of the affected area is accomplished in accordance with Figure 2A or 2B of BAC Alert Service Bulletin 57-A-PM5381, Issue 2, dated July 5, 1976, or an FAA-approved equivalent. Upon accumulating the 600 additional landings, repair the cracked area of the spar in accordance with Figure 4 or Figure 5, or both, as applicable, of BAC ASB 57-A-PM5381, or an FAA-approved equivalent.

(f) For the purpose of complying with this AD, subject to acceptance by the assigned Airworthiness Inspector, the number of landings, if not recorded, may be determined by dividing the actual number of flight hours for the particular flap assembly by the operator's fleet average time from takeoff to landing for the airplane type.

(g) Upon the request of an operator, the Chief, Aircraft Certification Staff, FAA, Europe, Africa and Middle East Region, c/o American Embassy, APO New York, N.Y. 09667, may adjust crack length limitations, approve alternate repetitive inspection intervals and procedures, and approve alternate rework procedures to facilitate continued operations by the operator, if data substantiating such action are submitted by the operator.

(h) The repetitive inspections required by paragraphs (a)(2) and (a)(5) of this AD may be discontinued upon the incorporation of Modifications 57-PM-1931, 57-PM-2961, and 57-PM-5381.

(i) The repetitive inspections required by paragraph (b)(2) of this AD may be discontinued upon the incorporation of Modification 57-PM-5381.

This amendment becomes effective July 21, 1977.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended, (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on June 30, 1977.

R. P. SKULLY,
Director,
Flight Standards Service.

[FR Doc.77-19474 Filed 7-8-77;8:45 am]

[Docket No. 77-CE-14-AD; Amendment 39-2964]

PART 39—AIRWORTHINESS DIRECTIVES

Cessna Models 182P and 182Q Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD) applicable to certain Cessna Models 182P and 182Q airplanes which requires inspection of the horizontal stabilizer skin contour directly above the rear spar upper flange and reforming of the contour if required. Pending the inspection, installation of a placard is required limiting aft center of gravity location to 46.0 inches aft of datum.

EFFECTIVE DATE: July 18, 1977. Compliance: Initial compliance required within 25 hours time-in-service after the effective date of this AD and final compliance required within 100 hours time-in-service after the effective date of this AD.

ADDRESSES: Cessna Service Letter Number SE77-11, dated April 25, 1977, applicable to this AD, may be obtained from Cessna Aircraft Company, Marketing Division, Attention: Customer Service Department, Wichita, Kansas 67201; telephone (316) 685-9111. A copy of the service instructions cited above is contained in the Rules Docket, Room 916, 800 Independence Avenue, SW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

William L. Schroeder, Aerospace Engineer, Engineering and Manufacturing Branch, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106; telephone (816) 374-3446.

SUPPLEMENTARY INFORMATION: During FAA flight testing for a supplemental type certificate project involving a Cessna Model 182Q airplane, it was discovered that the airplane could not be trimmed and that excessive elevator control forces existed when the airplane was loaded to maximum gross weight and maximum aft center of gravity location. The aircraft manufacturer was advised and upon investigation, determined that the problem was caused by the upper flange on the right and left horizontal stabilizer rear spar being improperly formed. This condition described herein can have an adverse effect on aircraft controllability and safety of flight when aircraft are loaded to maximum gross

weight and aft center of gravity location. Subsequent to its investigation, the manufacturer issued Cessna Service Letter Number SE77-11, dated April 25, 1977, recommending inspection of the right and left horizontal stabilizer rear spar upper flange for proper forming and reforming of any improperly formed spar flanges. In addition, the Service Letter limits the maximum aft center of gravity location to 46.0 inches aft of the datum until the inspection and, if necessary, reforming are accomplished.

Accordingly, since an unsafe condition is likely to exist in other airplanes of the same type design, an AD is being issued applicable to certain serial numbers of Cessna Model 182P and 182Q airplanes, requiring installation of a temporary placard within 25 hours time-in-service after the effective date of the AD limiting the aft center of gravity location to 46.0 inches aft of datum. In addition, the AD makes the inspection and, if necessary, the reforming requirements noted in the Cessna Service Letter mandatory within 100 hours time-in-service after the effective date of this AD. This AD has been coordinated with the aircraft manufacturer prior to issuance. The FAA has determined that there is an immediate need for a regulation to assure safe operation of the affected airplanes. Therefore, notice and public procedure under 5 U.S.C. 553(b) is impracticable and contrary to the public interest and good cause exists for making the amendment effective in less than thirty (30) days after the date of publication in the FEDERAL REGISTER.

DRAFTING INFORMATION

The principal authors of this document are: William L. Schroeder, Flight Standards Division, Central Region, and John L. Fitzgerald, Jr., Office of the Regional Counsel, Central Region.

ADOPTION OF THE AMENDMENT

Accordingly and pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR Sec. 39.13) is amended by adding the following new AD.

CESSNA. Applies to Models 182P (serial numbers 18262466 through 18264713, 18264715 through 18265081, 18265083 through 18265175) and 182Q (serial numbers 18265177 through 18265213, 18265215 through 18265222, 18265224 through 18265237, 18265239 through 18265305, 18265307 through 18265320, and 18265322 through 18265327) airplanes certificated in all categories.

Compliance: Required as indicated, unless already accomplished.

To assure aircraft controlability when operating at maximum gross weight and aft center of gravity location, accomplish the following:

A. Within 25 hours time-in-service after the effective date of this AD:

1. Fabricate a placard having 3/16 inch or larger letters reading "AFT C.G. LOCATION LIMITED TO 46.0 INCHES".

2. Install the placard fabricated in A. 1. above in clear view of the pilot and operate the airplane in accordance with this limitation until paragraph B. of this AD is accomplished.

B. Within 100 hours time-in-service after the effective date of this AD in accordance with Cessna Service Letter SE77-11, dated April 25, 1977, or later approved revisions:

1. Using a steel straight edge, visually inspect the right and left horizontal stabilizer upper skin immediately aft of the stabilizer rear spar upper flange rivet line for evenness along the entire span of the spar.

2. If the inspection required by paragraph B.1. of this AD shows that unevenness exists, support the right and left stabilizer tips and fuselage tail cone and, using a mallet and a 6"x1"x1" phenolic block, reform the stabilizer rear spar upper flange to eliminate any unevenness.

C. After complying with paragraphs B.1. and B.2. of this AD, the aft center of gravity location is no longer limited to 46.0 inches aft of the datum and the placard installed in accordance with paragraph A. of this AD may be removed.

D. The 100 hour compliance time in paragraph B. may be extended to a maximum of 110 hours time-in-service when necessary to allow compliance at a regularly scheduled maintenance period.

E. Any equivalent method of compliance with this AD must be approved by the Chief, Engineering and Manufacturing Branch, FAA, Central Region.

This amendment becomes effective July 18, 1977.

(Secs. 313(a), 601 and 603 of the Federal Aviation Act of 1958, as amended, (49 U.S.C. 1354(a), 1421 and 1423); Sec. 6(c) Department of Transportation Act (49 U.S.C. 1655 (c)); Sec. 11.89 of the Federal Aviation Regulations (14 CFR Sec. 11.89)).

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Kansas City, Missouri on July 1, 1977.

JOHN E. SHAW,
Acting Director, Central Region.

[FR Doc.77-19700 Filed 7-8-77;8:45 am]

[Docket No. 77-GL-10; Amdt. 39-2907]

PART 39—AIRWORTHINESS DIRECTIVES

Detroit Diesel Allison Model 250-C20/C20B/C20C and 250-B17/B17B Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment comprising a new Airworthiness Directive (AD) was adopted effective immediately on May 10, 1977, and concurrently copies were air mailed to all known operators of Detroit Diesel Allison Model 250-C20/C20B/C20C and 250-B17/B17B Engines. The AD amends AD 77-09-08 to correct the effective date from May 10, 1977, to June 10, 1977, due to an inadvertence.

EFFECTIVE DATE: July 18, 1977.

FOR FURTHER INFORMATION CONTACT:

William Ashworth, Engineering and Manufacturing Branch, Flight Standards Division, AGL-214, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018; telephone (312) 694-4500, extension 308.

SUPPLEMENTARY INFORMATION: Due to an inadvertence, Amendment 39-2889, 42 F.R. 23504, AD 77-09-08, was issued with an effective date of May 11, 1977, rather than June 10, 1977. Since immediate correction of the inadvertence was required in the public interest air mail letters dated May 10, 1977, were distributed to all known operators of the engines referenced by this AD to correct the effective date to read June 10, 1977.

Since this amendment corrects an inadvertence, is relaxatory in nature, and imposes no additional burden on any person, notice and public procedure hereon are unnecessary and the amendment may be made effective in less than 30 days.

In accordance with Departmental Regulatory Reform, dated March 23, 1976, we have determined that the expected impact of this final regulation is so minimal that it does not warrant an evaluation.

DRAFTING INFORMATION

The principal authors of this document are W. Ashworth, Flight Standards Division, Great Lakes Region, and J. McLaughlin, Office of the Regional Counsel, Great Lakes Region.

ADOPTION OF THE AMENDMENT

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations, Amendment 39-2889, 42 FR 23504, AD 77-09-08, is hereby amended to substitute the following as the effective date paragraph:

"This amendment becomes effective June 10, 1977."

This corrective amendment is effective July 18, 1977, and was effective immediately for all recipients of air mail letters dated May 10, 1977, which contained this amendment.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354 (a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Des Plaines, Illinois, on July 1, 1977.

JOHN M. CYROCKI,
Director,
Great Lakes Region.

[FR Doc.77-19702 Filed 7-8-77;8:45 am]

[Docket No. 77-GL-12; Amdt. 39-2955]

PART 39—AIRWORTHINESS DIRECTIVES

Hartzell Propeller, Inc. Model EHC-A3VF-2B/V7636N Propellers

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This airworthiness directive (AD) requires that Hartzell Model EHC-A3VF-2B/V7636N propellers used on Continental IO-520-E series engines installed on the de Havilland (Heron) D.H. 114 series aircraft in accordance with STC SA1685WE be inspected periodically to detect cracks and modified to prevent possible failure of the blade clamps and blade shanks, and to insure that sealant against corrosive atmosphere is properly and adequately applied. This action is considered necessary due to additional blade clamp and shank cracks which have occurred in service following issuance of AD 75-17-34.

DATE: Effective date—July 14, 1977. Compliance schedule—As prescribed in the body of the AD.

ADDRESSES: Copies of Hartzell Bulletin No. 97A, Bulletin No. 113B and Manual No. 114B may be obtained from Hartzell Propeller, Inc., 350 Washington Avenue, Piqua, Ohio 45356.

Copies of the service information incorporated in this AD are contained in the Rules Docket, Office of the Regional Counsel, 2300 E. Devon Avenue, Des Plaines, Illinois 60018; and at FAA Headquarters, Room 916, 800 Independence Avenue, S.W., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

M. J. Walker, Engineering and Manufacturing Branch, Flight Standards Division, AGL-214, Federal Aviation Administration, 2300 E. Devon Avenue, Des Plaines, Illinois 60018; telephone (312) 694-4500, extension 309.

SUPPLEMENTARY INFORMATION: AD 75-17-34, Amendment 39-2337, effective August 14, 1975 was issued to detect cracks and prevent possible blade shank and clamp failures by daily inspection of the clamps and blade shank exterior surfaces using a 10 power magnifying glass, relieved by removal of the propeller, disassembly, and inspection of the blade shank retention and bore areas and replacement with new approved parts, as necessary, prior to the accumulation of 1,000 hours in service and every 1,000 hours in service thereafter. The AD applies only to Model EHC-A3VF-2B propellers having Model V7636D blades. Since issuing AD 75-17-34 there have been several more instances of propeller blade clamp cracks as well as blade shank cracks in new Model V7636N blades having a redesigned pilot bore configuration when operated on the D.H. 114 series aircraft.

Reinvestigation revealed that, in the case of the blade clamps, the most probable cause is the aggravation of imposed vibratory stresses by stress concentrations inherent in the design. In the case of the blade shanks, metallurgical investigations revealed that the cracks originated in discontinuities in the shot peened surface of the grooves under steady and vibratory loads and propagated further in the presence of corrosion. Failure of the blade clamp or of the blade shank could result in loss of a propeller blade.

Since this condition is likely to exist or develop in other propellers of similar design used on the D.H. 114 aircraft, an airworthiness directive is being issued to change the frequency of inspections, to rework the propeller blade shank retention area, and to replace defective parts with new approved parts, as necessary.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

In accordance with Departmental Regulatory Reform, dated March 23, 1976, we have determined that the expected impact of this final regulation is so minimal that it does not warrant an evaluation.

Drafting Information

The principal authors of this document are M. J. Walker, Fight Standards Division, Great Lakes Region, and H. Hettinger, Office of the Regional Counsel, Great Lakes Region.

Adoption of the Amendment

§ 39.13 [Amended]

Accordingly, and pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new Airworthiness Directive:

Hartzell Propellers. Applies to Hartzell Model EHC-A3VF-2B/V7636N Propellers Used on Continental IO-520-E Series Engines Installed on the de Havilland (Heron) D.H. 114 Series Aircraft Modified in Accordance With STC SA1685WE.

(a) External Clamp and Blade Inspection. To detect cracks and prevent possible blade clamp and shank failures accomplish this paragraph before further flight or within 32 hours time in service from the time of previous inspection, if accomplished. Reinspect in accordance with this paragraph each 32 hours time in service thereafter:

(1) Remove spinner and inspect propeller blade shank external surface for cracks using a 10X (ten power) glass from area where blade emerges from clamp to the station 10 inches outboard of the clamp.

(2) Inspect blade clamp for cracks using a 10X (ten power) glass. Also, inspect for loose or broken bolts. Replace any cracked clamp or broken bolt with new parts before further flight.

(b) Blade Shank Inspection. To detect cracks in the blade shank retention shoulder and groove and prevent possible blade failure, accomplish this paragraph before further flight or within 400 hours time in service from the time of previous inspection, if accomplished. Reinspect in accordance with this paragraph each 400 hours time in service thereafter:

(1) Remove propeller from the aircraft, disassemble blades from propeller and inspect the double retention shoulders of the blade shanks for evidence of cracks in the shoulder and groove surfaces using a 3-step dye penetrant method. If no cracks are found, reassemble in accordance with Hartzell (overhaul) Manual No. 114B, or later FAA approved revision. During reassembly insure that a complete seal and proper sealant are used in the retention area interface between blades and clamps.

(2) Upon request of the operator, subject to approval of the Chief, Engineering and Manufacturing Branch, Federal Aviation Administration, Great Lakes Region, an ultrasonic or other alternate method of crack detection which does not require removal from the aircraft or disassembly of the propeller may be substituted for paragraph (b)(1) above.

In the event any cracked blade is found during inspections accomplished in accordance with paragraphs (a) or (b) above, the propeller must be replaced with a propeller which has been inspected and modified in accordance with paragraph (c) which follows:

Any propeller with a history of synchronization difficulties and/or rough operation must be replaced before further flight with a propeller inspected and modified in accordance with paragraph (c) which follows:

(c) Blade Shank Modification. To prevent the initiation of fatigue cracks induced by shot peening and the propagation of such cracks by corrosion; rework, or replace if necessary in accordance with this paragraph within the next 1,200 hours or one year in service after the effective date of this AD, whichever occurs first. Reinspect and, as necessary, rework or replace in accordance with this paragraph each 1,200 hours or two years thereafter, whichever occurs first:

(1) Remove propeller from the aircraft, disassemble propeller and inspect blades, clamps, and hub for cracks in accordance with applicable portions of Hartzell Bulletin No. 97A dated March 1, 1973, Bulletin No. 113B dated September 10, 1976 and Hartzell (overhaul) Manual No. 114B, or later FAA approved revisions.

(2) Return propeller blades to Hartzell Propeller, Inc., or a maintenance agency designated by it, for rework of shot peened areas and removal of any dimensional inconsistencies in accordance with processes approved by the Chief, Engineering and Manufacturing Branch, Federal Aviation Administration, Great Lakes Region.

(3) Reassemble propeller in accordance with Hartzell (overhaul) Manual No. 114B or later approved revision. During reassembly insure that a complete seal and proper sealant are used in the retention area interface between blades and clamps.

Replace before further flight any cracked or irreparable blade with a new or processed blade which conforms to paragraph (c)(2) above.

A service record (log) shall be maintained for affected propellers (blades and hub) which are inspected, repaired or replaced in accordance with this airworthiness directive. Report serial number, total time and description of any cracked blades to the Chief, Engineering and Manufacturing Branch, AGL-210, Great Lakes Region, FAA, 2300 East Devon Avenue, Des Plaines, Illinois 60018. (Reporting approved by the Bureau of the Budget under BOB No. 04-R0174.)

Upon request of the operator, a Federal Aviation Administration Maintenance Inspector, subject to approval of the Chief, Engineering and Manufacturing Branch, Federal Aviation Administration, Great Lakes Region, may adjust the repetitive inspection intervals specified in this airworthiness directive, if the request contains satisfactory

substantiating data to justify the adjustment for that operator.

The manufacturer's specifications and procedures identified in this directive are incorporated herein and made part hereof pursuant to 5 U.S.C. 522(a)(1). All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to Hartzell Propeller, Inc., 350 Washington Avenue, Piqua, Ohio 45356. These documents may also be examined at the Great Lakes Regional Office, 2300 East Devon Avenue, Des Plaines, Illinois 60018, and at FAA Headquarters, 800 Independence Avenue, S.W., Washington, D.C. 20591. A historical file of this airworthiness directive which includes incorporated material in full is maintained by the FAA at its headquarters in Washington, D.C. and at the Great Lakes Region.

This amendment becomes effective July 14, 1977.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Des Plaines, Illinois on June 27, 1977.

JOHN M. CYROCKI,
Director,
Great Lakes Region.

NOTE.—The incorporation by reference in the preceding document was approved by the Director of the Federal Register on June 19, 1967.

[FR Doc.77-19480 Filed 7-8-77;8:45 am]

[Airspace Docket No. 77-NE-9]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Control Zone and 700-Foot Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment changes the description of the Barre-Montpelier, Vermont, control zone and 700-foot transition area to provide more controlled airspace for aircraft executing a revised instrument approach procedure (Amendment 5) to VOR Runway 35 at the Edward F. Knapp State Airport, Barre-Montpelier, Vermont.

EFFECTIVE DATE: October 6, 1977.

FOR FURTHER INFORMATION CONTACT:

Richard G. Carlson, Operations Procedures and Airspace Branch, ANE-536, Air Traffic Division, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803; telephone 617-273-7285.

SUPPLEMENTARY INFORMATION: On May 19, 1977, the Federal Aviation Administration published a Notice proposing to alter the Barre-Montpelier, Vermont, control zone and 700-foot transition area to provide more controlled airspace for aircraft executing a revised instrument approach procedure (Amendment 5) to VOR Runway 35 at the Edward F. Knapp State Airport, Barre-Montpelier, Vermont. Interested persons were invited to participate in this rule making process by submitting written comments on the proposal to the FAA. No objections were received.

DRAFTING INFORMATION

The principal authors of this document are Richard G. Carlson, Air Traffic Division, New England Region, and George L. Thompson, Associate Regional Counsel, New England Region.

ADOPTION OF THE AMENDMENT

§§ 71.171 and 71.181 [Amended]

Accordingly, pursuant to the authority delegated to me by the Administrator, §§ 71.171 and 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) are amended, effective 0901 G.m.t., October 6, 1977, as follows:

SECTION 71.171

MONTPELIER, VERMONT, CONTROL ZONE

Within a 6-mile radius of the center, lat. 44°12'15" N., long. 72°33'45" W., of Edward F. Knapp (Barre-Montpelier) State Airport, Barre-Montpelier, Vermont; within 3 miles each side of the Montpelier VOR, lat. 44°12'41" N., long. 72°33'45" W., 163° radial extending from the 6-mile radius zone to 8.5 miles south of the VOR; within 2 miles each side of the center line of Runway 23 extending from the 6-mile radius zone to 8 miles southwest of the end of Runway 23.

SECTION 71.181

MONTPELIER, VERMONT, 700-FOOT TRANSITION AREA

That airspace extending upward from 700 feet above the surface within a 10-mile radius of the center, lat. 44°12'15" N., long. 72°33'45" W., of Edward F. Knapp (Barre-Montpelier) State Airport, Barre-Montpelier, Vermont; within 6.5 miles west and 5 miles east of the Montpelier VOR, lat. 44°12'41" N., long. 72°33'45" W., 163° radial extending from the 10-mile radius zone to 17.5 miles south of the VOR; within 4.5 miles each side of the Mount Mansfield NDB, lat. 44°23'11.8" N., long. 72°41'38.3" W., 332° and 152° bearing from the NDB, extending from the 10-mile radius zone to 10.5 miles northwest of the NDB, excluding that portion within the Morrisville, Vermont, transition area.

(Section 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348(a)) and of Section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Burlington, Massachusetts, on June 23, 1977.

WILLIAM E. CROSBY,
Acting Director,
New England Region.

[FR Doc.77-19694 Filed 7-8-77;8:45 am]

[Airspace Docket No. 77-RM-6]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Designation of a Low Altitude Reporting Point

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment will designate Hugo, Colo., as a domestic low altitude reporting point, thereby requiring low altitude IFR flights transiting this area to provide accurate position reports to air traffic control. This requirement will allow air traffic control to provide increased services to airspace users in this area of marginal low altitude radar coverage.

EFFECTIVE DATE: October 6, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. David F. Solomon, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; telephone: (202-426-8530).

SUPPLEMENTARY INFORMATION: The purpose of this amendment to Subpart I of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is to designate the Hugo, Colo., VORTAC as a domestic low altitude reporting point. Subpart I of Part 71 of the Federal Aviation Regulations was republished in the FEDERAL REGISTER on January 3, 1977 (42 FR 626).

Presently, aircraft proceeding along VOR airway V-263 over Hugo, Colo., are not required to make a position report to air traffic control. The level of radar coverage in this area below 15,000 feet MSL is marginal and radar air traffic services cannot always be provided to these flights. This designation of Hugo, Colo., VORTAC as a low altitude reporting point will allow air traffic control to provide increased services to the airspace users in this area.

Under the circumstances presented, the FAA concludes that this action is of benefit to the flying public and is a minor matter on which the public would have no particular desire to comment. Therefore, notice and public procedure thereon are unnecessary.

DRAFTING INFORMATION

The principal authors of this document are Mr. David F. Solomon, Air

Traffic Service, and Mr. Jack P. Zimmerman, Office of the Chief Counsel.

ADOPTION OF THE AMENDMENT

§ 71.203 [Amended]

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart I of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (42 FR 626) is amended, effective 0901 Gmt, October 6, 1977, as follows:

In § 71.203 add "Hugo, Colo."

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69.)

NOTE.—The FAA has determined that this document does not contain a major proposal requiring the preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on July 1, 1977.

WILLIAM E. BROADWATER,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc.77-19481 Filed 7-8-77;8:45 am]

[Docket No. 77-SO-24]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Redesignation of Control Zone, Tuscaloosa, Alabama

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment changes the effective hours of the Tuscaloosa, Alabama, Control Zone to coincide with the hours of operation of the Tuscaloosa Flight Service Station. The hours of the Flight Service Station are being reduced from continuous to 0600 to 2200 hours local time. This reduces the availability of weather observations and necessitates the change in control zone hours of operation to conform to the Flight Service Station hours of operation.

EFFECTIVE DATE: August 11, 1977.

ADDRESS: Federal Aviation Administration, Chief, Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320.

FOR FURTHER INFORMATION CONTACT:

William F. Herring, Airspace and Procedures Branch, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; Telephone: 404-763-7646.

SUPPLEMENTARY INFORMATION: In Subpart F, § 71.171 (42 FR 355) of FAR, Part 71, the Tuscaloosa Control Zone is designated as continuous (through the omission of any reference to specific dates and times of operation). This conforms with the Flight Service Station hours of operation. Weather observations are provided by the Flight Service Station on a 24-hour basis, which is one of the requirements for a continuous control zone operation.

A review of the Flight Service Station workload indicates insufficient activity to retain the 24-hour operation. On August 11, 1977, the Flight Service Station hours of operation will be reduced to 0545 to 2200 hours local time daily. This will necessitate a similar reduction in the control zone hours of operation.

The aforementioned action will reduce the constraints and, in effect, the impact on the user imposed by the control zone operation. Consequently, we have elected to omit circularization of the change for comment.

DRAFTING INFORMATION

The principal authors of this document are William F. Herring, Airspace and Procedures Branch, Air Traffic Division, and Eddie L. Thomas, Office of Regional Counsel.

ADOPTION OF AMENDMENT

Accordingly, Part 71 of the Federal Aviation Regulations is amended effective 0901 GmT, August 11, 1977, as follows:

§ 71.171 [Amended]

In Subpart F, § 71.171 (42 FR 355), the Tuscaloosa, Alabama, Control Zone is amended by adding the following:

This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airmen's Information Manual.

(Sec. 307(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)) and sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in East Point, Ga., on June 28, 1977.

GEORGE R. LACAILLE,
Acting Director, Southern Region.

[FR Doc.77-19475 Filed 7-8-77;8:45 am]

[Docket No. 77-SO-29]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, AND CONTROLLED AIRSPACE, AND REPORTING POINTS

Revocation of Transition Area, Craig AFB Aux. (Vaiden), Alabama

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action revokes the Craig AFB Aux. (Vaiden), Alabama, 700 foot transition area because the IFR GCA approach procedure to the airport has been cancelled.

EFFECTIVE DATE: October 6, 1977.

ADDRESS: Federal Aviation Administration, Chief, Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320.

FOR FURTHER INFORMATION CONTACT:

William F. Herring, Airspace and Procedures Branch, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; Telephone: 404-763-7646.

SUPPLEMENTARY INFORMATION: The Craig AFB Aux. (Vaiden), Alabama, transition area, described in § 71.181 (40 FR 441), was designated to provide controlled airspace protection for IFR operations at Craig AFB Aux. Airport. The IFR GCA approach procedure has been cancelled. Therefore, it is necessary to revoke the transition area. Since this amendment lessens the burden on the public, notice and public procedure hereon are unnecessary.

THE RULE

This amendment to Part 71 of the Federal Aviation Regulations (FARs) revokes the Craig AFB Aux. (Vaiden), Alabama, 700 foot transition area.

DRAFTING INFORMATION

The principal authors of this document are William F. Herring, Airspace and Procedures Branch, Air Traffic Division, and Eddie L. Thomas, Office of Regional Counsel, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320.

ADOPTION OF AMENDMENT

§ 71.181 [Amended]

Accordingly, pursuant to the authority delegated to me by the Administrator, Part 71 of the Federal Aviation Regulations (14 CFR, Part 71) as republished (42 FR 307) is amended, effective 0901 Gmt, October 6, 1977, the Craig AFB Aux. (Vaiden), Alabama, transition area is revoked.

(Sec. 307(a), of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)) and Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)) (14 CFR 11:69).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in East Point, Ga., June 28, 1977.

GEORGE R. LACAILLE,
Acting Director, Southern Region.

[FR Doc.77-19476 Filed 7-8-77;8:45 am]

[Airspace Docket No. 77-NE-8]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of 700-Foot Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment changes the description of the Palmer, Massachusetts, 700-foot transition area to provide

more controlled airspace for aircraft executing a new standard instrument approach procedure (NDB-A) to the Palmer Metropolitan Airport, Palmer, Massachusetts.

EFFECTIVE DATE: October 6, 1977.

FOR FURTHER INFOMATION CONTACT:

Richard G. Carlson, Operations Procedures and Airspace Branch, ANE-536, Air Traffic Division, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803; telephone 617-273-7285.

SUPPLEMENTARY INFORMATION: On April 25, 1977, the Federal Aviation Administration published a Notice proposing the alteration of the 700-foot transition area at Palmer, Massachusetts, to provide more controlled airspace for aircraft executing a new standard instrument approach procedure (NDB-A) to the Palmer Metropolitan Airport, Palmer, Massachusetts. Interested persons were invited to participate in this rule making process by submitting written comments to the FAA. No objections were received.

DRAFTING INFORMATION

The principal authors of this document are Richard G. Carlson, Air Traffic Division, New England Region, and George L. Thompson, Associate Regional Counsel, New England Region.

ADOPTION OF THE AMENDMENT

§ 71.181 [Amended]

Accordingly, pursuant to the authority delegated to me by the Administrator, § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective 0901 G.m.t., August 11, 1977, as follows:

SECTION 71.181

PALMER, MASSACHUSETTS, 700-FOOT TRANSITION AREA

1. By deleting Line 5 of the description of the Palmer, Massachusetts, 400-foot transition area and inserting in lieu thereof the following:

Line 5. And within 4.5 miles each side of the 202° bearing from the Palmer, Massachusetts, RBN 42°13'26" N.; 72°18'47" W., extending from the 5-mile radius area to 10.5 miles south of the RBN.

(Sec. 307(a), Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348(a)); Section 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Burlington, Massachusetts, on June 23, 1977.

WILLIAM E. CROSBY,
Acting Director,
New England Region.

[FR Doc.77-19693 Filed 7-8-77; 8:45 am]

SUBCHAPTER F—AIR TRAFFIC AND GENERAL OPERATING RULES

[Docket No. 16994; Amdt. No. 1080]

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrumental Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination—1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, D.C. 20591;

2. The FAA Regional Office of the region in which the affected airport is located; or

3. The Flight Inspection Field Office which originated the SIAP.

For Purchase—Individual SIAP copies may be obtained from: 1. FAA Public Information Center (APA-430), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, D.C. 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—Copies of all SIAPs, mailed weekly, may be ordered from Superintendant of Documents, U.S. Government Printing Office, Washington, D.C. 20402. The current annual subscription price is $150; add $30 for each additional copy mailed to the same address.

FOR FURTHER INFORMATION CONTACT:

William L. Bersch, Flight Procedures and Airspace Branch (AFS-730), Aircraft Programs Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426-8277.

SUPPLEMENTARY INFORMATION: This amendment to Part 97 of the Federal Aviation Regulations (14 CFR Part 9) prescribes new, amended, suspended, or revoked Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR Part 51, and § 97.20 of the Federal Aviation Regulations (FARs). The applicable FAA forms are identified as FAA Forms 8260-3, 8260-4 and 8260-5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the FEDERAL REGISTER expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form document is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

This amendment to Part 97 is effective on the date of publication and contains separate SIAPs which have compliance dates stated as effective dates based on related changes in the National Airspace System or the application of new or revised criteria. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPs). In developing these SIAPs, the TERPs criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs is unnecessary, impracticable, or contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

The principal authors of this document are Rudolph L. Fioretti, Flight Standards Service, and Richard W. Danforth, Office of the Chief Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me, Part 97 of the Federal Aviation Regulations (14 CFR Part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective on the dates specified, as follows:

§ 97.23 [Amended]

1. By amending § 97.23 VOR-VOR/DME SIAPs identified as follows:

* * * *effective August 25, 1977.*

Terre Haute, IN—Hulman Field, VOR Rwy 23, Amdt. 12
Kalamazoo, MI—Kalamazoo Municipal, VOR Rwy 17, Amdt. 8
Kalamazoo, MI—Kalamazoo Municipal, VOR Rwy 23, Amdt. 9
Kalamazoo, MI—Kalamazoo Municipal, VOR Rwy 35, Amdt. 7
Minneapolis, MN—Flying Cloud, VOR Rwy 9L, Amdt. 7
Minneapolis, MN—Flying Cloud, VOR Rwy 36, Amdt. 3
Duchesne, UT—Duchesne Municipal, VOR/DME Rwy 25, Original

* * * *effective August 18, 1977.*

Pell City, AL—St. Clair County, VOR-A, Amdt. 5
East St. Louis, IL—Bi-State Parks, VOR/DME-A, Amdt. 4
Quincy, IL—Quincy Muni Baldwin Field, VOR Rwy 3, Amdt. 8
Quincy, IL—Quincy Muni Baldwin Field, VOR/DME Rwy 21, Amdt. 3
Shelbyville, IN—Shelbyville Municipal, VOR Rwy 18, Amdt. 4
Clinton, IA—Clinton Muni., VOR Rwy 3, Amdt. 5
Clinton, IA—Clinton Muni., VORTAC Rwy 21, Amdt. 1, cancelled
Clinton, IA—Clinton Muni., VOR/DME Rwy 21 (TAC), Original
Ottumwa, IA—Ottumwa Industrial, VOR/DME Rwy 13, Amdt. 4
Ottumwa, IA—Ottumwa Industrial, VOR Rwy 31, Amdt. 12
Augusta, ME—Augusta State, VOR Rwy 35, Amdt. 1
Augusta, ME—Augusta State, VOR/DME Rwy 8, Amdt. 8
Augusta, ME—Augusta State, VOR/DME-A, Amdt. 8
Augusta, ME—Augusta State, VOR/DME Rwy 17, Amdt. 1
Millinocket, ME—Millinocket Muni., VOR-A, Amdt. 6
Detroit, MI—Willow Run, VOR Rwy 5R, Amdt. 5
Detroit, MI—Willow Run, VOR Rwy 23L, Amdt. 2
Ainsworth, NE—Ainsworth Muni., VOR Rwy 17, Amdt. 4
Ainsworth, NE—Ainsworth Muni., VOR Rwy 35, Original
Washington, PA—Washington County, VOR-A, Amdt. 1
Washington, PA—Washington County, VOR-B, Amdt. 1
Shelbyville, Tenn.—Bomar Field-Shelbyville Municipal, VOR-A, Amdt. 2, cancelled

§ 97.25 [Amended]

2. By amending § 97.25 SDF-LOC-LDA SIAPs identified as follows:

* * * *effective August 25, 1977.*

Terre Haute, IN—Hulman Field, LOC(BC) Rwy 23, Amdt. 12
Kalamazoo, MI—Kalamazoo Municipal, LOC BC Rwy 17, Amdt. 9

* * * *effective August 18, 1977.*

East St. Louis, IL—Bi-State Parks, LOC Rwy 30, Amdt. 2
Quincy, IL—Quincy Muni, Baldwin Field, LOC/DME (BC) Rwy 21, Amdt. 2
Ottumwa, IA—Ottumwa Industrial, LOC/DME BC Rwy 13, Original
Detroit, MI—Detroit City, LOC Rwy 15, Amdt. 7
Detroit, MI—Willow Run, LOC (BC) Rwy 23L, Amdt. 3

§ 97.27 [Amended]

3. By amending § 97.27 NDB/ADF SIAPs identified as follows:

* * * *effective August 25, 1977.*

Terre Haute, IN—Hulman Field, NDB Rwy 5, Amdt. 10
Kalamazoo, MI—Kalamazoo Municipal, NDB Rwy 35, Amt. 9

* * * *effective August 18, 1977.*

East St. Louis, IL—Bi-State Parks, NDB Rwy 30, Amdt. 10
Quincy, IL—Quincy Muni., Baldwin Field, NDB Rwy 3, Amdt. 12
Clinton, IA—Clinton Muni., NDB Rwy 3, Amdt. 3
Clinton, IA—Clinton Muni., NDB Rwy 14, Amdt. 3
Augusta, ME—Augusta State, NDB-B, Amdt. 5
Millinocket, ME—Millinocket Muni., NDB-B, Amdt. 6
Detroit, MI—Willow Run, NDB Rwy 5R, Amdt. 3
Detroit, MI—Detroit City, NDB Rwy 15, Amdt. 14
Madisonville, TN—Monroe County Airport, NDB Rwy 5, Amdt. 1

4. By amending § 97.29 ILS-MLS SIAPs identified as follows:

* * * *effective August 25, 1977.*

Kalamazoo, MI—Kalamazoo Municipal, ILS Rwy 35, Amdt. 11

* * * *effective August 18, 1977.*

Ottumwa, IA—Ottumwa Industrial, ILS Rwy 31, Amdt. 2
Detroit, MI—Detroit City, ILS Rwy 33, Amdt. 3
Detroit, MI—Willow Run, ILS Rwy 5R, Amdt. 5

* * * *effective June 24, 1977.*

Miami, FL—Miami International, ILS Rwy 9R, Amdt. 3

5. By amending § 97.33 RNAV SIAPs identified as follows:

* * * *effective August 25, 1977.*

Terre Haute, IN—Hulman Field, RNAV Rwy 31, Amdt. 1

* * * *effective August 18, 1977.*

East St. Louis, IL—Bi-State Parks, RNAV Rwy 30, Amdt. 2
Clinton, IA—Clinton Muni., RNAV Rwy 21, Amdt. 2

[Secs. 307, 313(a), 601, and 1110, Federal Aviation Act of 1958 (49 U.S.C. §§ 1348, 1354 (a), 1421, and 1510); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); Delegation: 25 FR 6489 and Paragraph 802 of Order FS P 1100.1, as amended March 9, 1973.]

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C. on July 1, 1977.

NOTE: The incorporation by reference in the preceding document was approved by the Director of the Federal Register on May 12, 1969.

JAMES M. VINES,
Chief,
Aircraft Programs Division.

[FR Doc.77-19479 Filed 7-8-77;8:45 am]

Title 17—Commodity and Securities Exchanges

CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-13713; File No. S7-961]

PART 240—GENERAL RULES AND REGULATIONS SECURITIES EXCHANGE ACT OF 1934

FOCUS Reporting System

AGENCY: Securities and Exchange Commission.

ACTION: Postponement of effective date; extension of comment period.

SUMMARY: This action defers until January 1, 1978 the effective date of the requirement that the annual audited report of a registered broker or dealer include a determination by the independent accountant as to the adequacy of the procedures established by a broker or dealer for complying with the requirements for possession or control of certain customer securities. It also extends until October 31, 1977 the comment period with respect to the standard of adequacy. This postponement will permit consideration and dissemination of standards for the evaluation of the adequacy of these procedures.

DATES: Effective date of provision: January 1, 1978. Comments on or before: October 31, 1977.

FOR FURTHER INFORMATION CONTACT:

Nelson S. Kibler, Assistant Director, Division of Market Regulation, Securities and Exchange Commission, Washington, D.C. 20549 (202/755-1390).

ADDRESSES: Written comments, submitted in triplicate, should be addressed to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission today announced a postponement of the effective date of that part of 17 CFR 240.17a-5(g)(1)(iv) under section 17(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq. as amended by Pub. L. No. 94-29 (June 4, 1975)) which would require the audited report of a broker or dealer conducted in compliance with paragraph (d) of 17 CFR 240.17a-5 to include a determination of the adequacy of procedures established by a broker or dealer in obtaining and maintaining physical possession or control of all fully paid and excess margin securities of customers as required by 17 CFR 240.15c3-3.

DISCUSSION

On April 22, 1977, in Securities Exchange Act Release No. 34-13462 (42 FR 23786, May 9, 1977), the Commission announced the adoption of certain amendments to the FOCUS reporting system, including 17 CFR 240.17a-5. Paragraph (g)(1)(iv) was revised to require that the audited report of a broker or dealer by an independent public accountant conducted pursuant to paragraph (d) of

§ 240.17a–5 include, in addition to the review of the practices and procedures of the broker or dealer in obtaining and maintaining possession or control of all fully-paid and excess margin securities of customers as required by § 240.15c3–3, "a determination as to the adequacy of the procedures described in the records required to be maintained pursuant to § 240.15c3–3(d)(4)." In the adopting release the Commission requested comments with respect to the appropriate definition of the term "adequacy" in this context.

A number of commentators have argued that the parameters of an adequate system of procedures for obtaining and maintaining physical possession or control under § 240.15c3–3 have not been established in sufficient detail or in terms susceptible of objective interpretation. They have asserted that, absent specific criteria against which to evaluate the broker's or dealer's procedures, the independent accountant would not be able to make a determination as to their adequacy. Further, without a definition of the term "adequacy" in this context, comments have indicated that disparities in interpretation and application may arise.

In order to consider the desirability of explicating the standards of § 240.15c3–3 or standards of the auditing profession and to permit the further solicitation of public comment on the guidelines which should be established, the Commission has determined that a delay in the effective date of that part of paragraph (g)(1)(iv) of § 240.17a–5 which prescribes that the audited report include a determination as to the adequacy of a broker's or dealer's procedures for obtaining and maintaining possession and control is appropriate.[1] Unless otherwise modified in the interim, this requirement will become effective on January 1, 1978.[2]

The Commission specifically solicits comment with respect to the sufficiency of the requirements of § 240.15c3–3 as a standard for evaluating the adequacy of procedures for securing possession or control and the content and formulation of supplementary guidelines which may be included in Commission rules or in standards for auditors.

Interested persons shall submit written comments in triplicate on or before October 31, 1977. All such communications should be directed to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 North Capitol Street, NW., Washington, D.C. 20549. Comments should refer to File No. S7–691 and will be available for public inspection.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

JULY 1, 1977.

[FR Doc.77-19637 Filed 7-8-77;8:45 am]

[1] Pursuant to paragraph (g) of § 240.17a–5 the audit of a broker or dealer will continue to include a review, among other things, of its procedures for safeguarding securities and practices and procedures in obtaining and maintaining physical possession or control of all fully-paid and excess margin securities of customers as required by § 240.15c3–3. This review must be "sufficient to provide reasonable assurance that any material inadequacies existing at the date of the examination would be disclosed."

[2] All other amendments to § 240.17a–5 as set forth in Securities Exchange Act Release No. 13462 (April 22, 1977) become effective on June 30, 1977.

Title 24—Housing and Urban Development

CHAPTER XIII—FEDERAL DISASTER ASSISTANCE ADMINISTRATION, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. R–77–282]

PART 2205—FEDERAL DISASTER ASSISTANCE

Individual and Family Grant Program

AGENCY: Federal Disaster Assistance Administration.

ACTION: Final rule.

SUMMARY: This rule contains the requirements each State must adopt for requesting and implementing the Individual and Family Grant program authorized by Section 408 of the Disaster Relief Act of 1974. This rule updates and replaces that currently published at 24 CFR 2205.48.

EFFECTIVE DATE: July 11, 1977.

FOR FURTHER INFORMATION CONTACT:

C. T. Babcock, Federal Disaster Assistance Administration, Room B–133, 451 Seventh Street SW., Washington, D.C. 20410. (202–634–7860).

SUPPLEMENTARY INFORMATION: On Thursday, January 27, 1977, the Federal Disaster Assistance Administration (FDAA) published proposed amendments to the regulations for the Individual and Family Grant program for public comment, to clarify, update, and consolidate the regulations. Several comments were received, and all were carefully considered in promulgating this final rule.

DISCUSSION OF MAJOR COMMENTS

FLOOD INSURANCE

1. There were several comments on the proposed requirement for States to determine whether flood insurance is required as a condition of eligibility for a grant (subsection (c)(1)(iv)). Two commenters felt that making this determination and requiring proof of purchase put an undue burden on the State. These comments have not been adopted because it is a State responsibility to administer the grant program, and it is incumbent upon the State to make all relevant determinations. Concerning the $25 initial premium as an eligible item under the grant program, two commenters suggested that this amount be raised to cover the actual cost of the first year's premium. The $25 initial premium will provide sufficient insurance coverage to protect the maximum grant investment of $5,000 and is considered a necessary and reasonable expense.

2. One commenter suggested that subsection (c)(1)(iv) be revised to provide greater detail and more complete guidance on a State's responsibility for ensuring compliance with the National Flood Insurance Program. This suggestion has been adopted, and the subsection has been rewritten to provide this guidance.

ELIGIBILITY CATEGORIES

3. One commenter suggested that "debris clearance" be deleted from the categories of eligibility in that this is a local government responsibility. This regulation is intended to provide assistance when other available programs cannot meet the needs of disaster victims. In those instances when debris is not removed from private property by other governmental programs and there is a need to do so in order to remove health hazards or protect against additional damage to private, owner-occupied primary residences, the Individual and Family Grant program should meet this need. Subsection (c)(2)(ii)(D) provides the authority to meet the need for debris removal, and will be retained.

4. Two comments were received concerning the proposed eligibility category providing for costs of moving and storing personal property, specifically, unoccupied mobile homes. The commenter suggested that this subsection be deleted because it exceeds the scope of the program, since such homes may be used for purposes unrelated to owner-occupied primary dwellings. These comments have been adopted by deleting "unoccupied mobile homes" from subsection (c)(2)(iii)(E), thereby allowing a State to determine what types of movement and storage of personal property constitute a necessary expense or serious need.

5. Three commenters responded to the addition of subsection (c)(2)(vi) which provides for temporary rental accommodations as a category of eligibility. One of these suggested that such assistance is more appropriately provided under the temporary housing program. However, since the grant program covers unmet needs, temporary accommodations expenses which cannot be covered otherwise (e.g., for those who are unable to quality for temporary housing, or those whose insurance does not cover temporary lodging) would be eligible. Therefore, this comment has not been adopted. The second and third comments indicated that the States would be burdened in determining who would be eligible for this assistance and under what circumstances, since no restrictions are implied. The Act states that the Governor of a State shall administer the grant program under national eligibility criteria and program standards; therefore, a State must assume the responsibility for certain determinations. The Congress has recognized this by allowing up to 3 percent of the Federal grant for administrative purposes. This policy will be further clarified in a grant program handbook soon to be published.

COORDINATION

6. A suggestion was received that the State should coordinate with the Federal Coordinating Officer (FCO) rather than the Regional Director (RD), as proposed by subsection (d)(6). This suggestion has not been adopted because the delegated authority for financial and technical assistance to States under this program rests with the RD. This does not eliminate the need for the State Coordinating Officer to coordinate the grant program with other State programs and to provide the FCO with reports as required, nor does it eliminate the State's requirement to coordinate with Federal and private organizations.

STATE ADMINISTRATIVE PROCEDURES

7. As the result of four comments on procedures for verifying grant expenditures which must be contained in each State Administrative Plan (subsection (e)(1)(iv)(F)), a change has been adopted which specifies that not less than 5 percent of approved grants must be verified. Subsection (e)(1)(ii)(G), which discusses recovery of grant funds for unauthorized items or services, has also been modified to properly emphasize actions concerning grant funds obtained fraudulently or misapplied by grant recipients. The subsection which proposed controls to insure that grant funds were spent in a timely manner was deleted, but subsection (j) has been modified to incorporate guidance on claims for reimbursement that include grants made on the basis of fraudulent information or grants that were misapplied.

8. Two commenters suggested that States be allowed to determine eligibility and grant amounts according to already established procedures, namely those in existing welfare programs. Because the legislative history indicates that no means test will be imposed, these suggestions were not adopted. Similarly, the suggestion that the grantee be permitted to use the money for any purpose was not adopted. As specified in the authorizing legislation, grant funds are for those necessary expenses or serious needs which cannot otherwise be met, i.e., they must be earmarked for those items, thus avoiding duplication of benefits.

TIME LIMITATIONS

9. Two comments were received on the 180-day limitation for the entire grant program. One of those suggested that attention should be focused on prompt delivery of assistance by allowing 150 days for program activity, with a more flexible and separate time for final sampling, appeals, and audits. The other suggested that the application period be modified so that the State could comply with the 180-day limitation while expediting payment to grantees. In considering these comments, records show that most grants, even in large programs, can be disbursed within 180 days. Regional Directors now have the authority to approve 90-day extensions when all grants have been disbursed, in order to allow the State to complete audits and submit vouchers. Subsection (g) contains the needed incentives and flexibility, and the suggestions for change have not been adopted.

AUDITS

10. In order to clarify the State audit requirements, subsection (k) has been revised to eliminate the implied need for auditing each approved grant. The 5 percent guideline, as proposed by one commenter, has not been adopted; however, the audit procedure has been tied to guidelines provided by the HUD Inspector General.

DEFINITIONS

In addition to the above, a change has been made to clarify the meaning and intent of "available governmental programs" by adding "disaster assistance" to the phrase in subsection (c)(1)(i)(A) (i.e., available governmental disaster assistance programs). Thus it is clear that applicants need not first apply for welfare programs or non-disaster related programs such as those which impose a means test or asset test.

Findings of inapplicability regarding environmental and economic impact were prepared for the proposed rule and copies are available in the Office of the Rules Docket Clerk, Room 5218, Department of Housing and Urban Development, 451 7th Street SW., Washington, D.C. 20410. Since the Department has previously determined that adoption of this rule will not affect the quality of human environment or the national economy, and since no change has been made in the substance of this rule, no further environmental or economic determination is being made.

Accordingly, 24 CFR Part 2205.48 is amended as follows and reprinted in its entirety for the convenience of users:

2205.48 Individual and Family Grant Programs.

§ 2205.48 Individual and family grants.

(a) *General.* The Governor may request that Federal funds be made available to a State for the purpose of such State making grants to individuals and families who, as a result of a major disaster, are unable to meet necessary expenses or serious needs. The grant program authorized by this section will be 75 percent Federally funded and 25 percent State funded. The Governor of the affected State or his representative will administer the grant program. The grant program is intended to provide funds to disaster victims to permit them to meet those necessary expenses or serious needs for which other governmental assistance is either unavailable or inadequate. The grant program is not intended to indemnify all disaster losses or to purchase items or services that may generally be characterized as nonessential, luxury, or decorative.

(b) *Definitions as used in this section.* (1) "Necessary expense" means the cost of an item or service essential to an individual or family to mitigate or overcome an adverse condition caused by a major disaster.

(2) "Serious need" means a requirement for an item or service essential to an individual or family to prevent or reduce hardship, injury, or loss caused by a major disaster.

(3) "Family" means a social unit comprised of husband and wife and dependents, if any, or a head of household, as these terms are defined in the Internal Revenue Code of 1954.

(4) "Individual" means a person who is not a member of a family, as defined in paragraph (b)(3) of this section.

(5) "Assistance from other means" means assistance including monetary or in-kind contributions from other governmental programs, insurance, voluntary or charitable organizations, or from any source other than those of the individual or family.

(c) *National eligibility criteria.* In administering the Individual and Family Grant Program, a State shall determine the eligibility of an individual or family for a grant to meet a necessary expense or serious need in accordance with the following criteria.

(1) *General.* (i) In order to qualify for a grant under this section, an individual or family representative must certify:

(A) That application has been made to other available governmental disaster assistance programs for assistance to meet a necessary expense or serious need and that neither he nor any member of his family has been determined to be qualified for such assistance, or for demonstrated reasons, any assistance recevied has not satisfied any such necessary expense or serious need.

(B) That with respect to the specific necessary expense or serious need or portion thereof for which application is made, neither he, nor to the best of his knowledge, any member of his family, has previously received or refused assistance from other means.

(C) That should the individual or family receive a grant and assistance from other means later becomes available to meet the necessary expense or serious need, the individual or family shall refund to the State that part of the grant for which assistance from other means has been received.

(ii) Farmers, ranchers, and persons engaged in aquaculture who are qualified to apply to the Farmers Home Administration (FmHA), must submit proof of the denial of such loan assistance from the FmHA before they may be considered eligible for a grant under this section. If applicants have been denied such loan assistance because, in FmHA's determination, they are able to obtain necessary credit from other sources, they will be considered ineligible for grant assistance for those items or services for which assistance may be provided by the FmHA's Emergency Loan program.

(iii) Individuals or families who incurred a necessary expense or serious need in the major disaster area may be eligible for assistance under this section without regard to their residency in the major disaster area or within the State in which the major disaster had been declared.

(iv) Where an individual or family is otherwise eligible for a grant to repair, replace, or rebuild a home or to purchase insurable furnishings to be contained in the home, States must determine whether the assistance is prohibited by the Flood Disaster Protection Act of 1973; i.e., where the assistance relates to a building located in a Federal Insurance Administration (FIA) identified special flood hazard area of a community not participating in the National Flood Insurance Program (NFIP), as shown on an FIA flood hazard boundary map or flood insurance rate map which has been in effect longer than one year (see 42 U.S.C. 4001 et seq.). If assistance is not prohibited, the State must determine from a review of the FIA map whether the building is located in a special flood hazard area of a participating community and, if it is, the applicant must purchase a flood insurance policy as a condition for the assistance in order to reduce future avoidable claims for Federal or State disaster assistance. These determinations by States are required in order for FDAA to comply with its obligations under sections 102(a) and 202(a) of the Flood Disaster Protection Act. The policy must provide coverage in an amount at least equal to the project cost; i.e., the cost of repairing, replacing, or rebuilding a dwelling (less any land value) and the cost of insurable personal property to be located in the dwelling, which are to be covered by the Individual and Family Grant Program. After a determination that flood insurance is required, and after disbursement of a grant, States shall require the grant recipient to provide proof of purchase of the required flood insurance. In this regard, the first $25.00 of the initial premium for flood insurance shall be considered a necessary expense.

(2) *Eligible categories.* Assistance under this section may be made available to meet necessary expenses or serious needs by providing essential items or services in the categories set forth below:

(i) Medical or dental.

(ii) Housing. With respect to private owner-occupied primary residences (including mobile homes), grants may be authorized to:

(A) Repair, replace, rebuild;

(B) Provide access;

(C) Clean or make sanitary;

(D) Remove debris from such residences. Any debris removal will be limited to the minimum required to remove health hazards or protect against additional damage to the residence;

(E) Provide minimum protective measures required to protect such residences against the immediate threat of damage; and

(F) Move mobile homes to prevent or reduce damage.

(iii) Personal Property.

(A) Clothing;

(B) Household items, furnishings, or appliances;

(C) Tools, specialized or protective clothing or equipment which are essential to or a condition of a wage earner's employment;

(D) Repair, clean or sanitize any eligible personal property item; and

(E) Move and store to prevent or reduce damage.

(iv) Transportation.

(A) Grants may be authorized to provide transportation by public conveyance provided that the requirement for this transportation was the direct result of the disaster.

(B) Grants may be authorized to provide private transportation, if the requirement for this transportation was the direct result of the disaster, and transportation by public conveyance is inadequate or unavailable.

(v) Funeral expenses. Grants for funeral expenses will be based on minimum expenditures for interment or cremation.

(vi) Rental accommodations, to include motel, hotel, and other temporary accommodations.

(3) *Ineligible categories.* Assistance under this section will not be made available for any item or service in the following categories:

(i) Business losses, including farm businesses.

(ii) Improvements or additions to real or personal property.

(iii) Landscaping.

(iv) Real or personal property used exclusively for recreation.

(v) Financial obligations incurred prior to the disaster.

(vi) Any necessary expense or serious need or portion thereof for which assistance was available from other means but was refused by the individual or family.

(4) *Other categories.* Should the State determine that an individual or family has an expense or need not specifically identified as eligible, the State shall provide a factual summary to the Regional Director, and request a determination.

(d) *State request to participate in the Individual and Family Grant Program.* In order to make assistance under this section available to disaster victims, the Governor must file with the appropriate Regional Director a request which includes the following:

(1) A certification that assistance under the Act and from other means is insufficient to meet necessary expenses or serious needs of disaster victims.

(2) An estimate of the number of disaster victims who have necessary expenses or serious needs and the basis for such estimate.

(3) An estimate or the total Federal grant as identified in paragraph (f)(1) of this section.

(4) A commitment to implement an administrative plan as identified in paragraph (e) of this section.

(5) A commitment to identify specifically in the accounts of the State all Federal and State funds committed to the grant program.

(6) A commitment to maintain close coordination with the Regional Director and provide him with such reports as he may require in order to insure proper administration, including avoidance of duplication of benefits and timely availability of Federal funds.

(7) A commitment to implement the grant program throughout the major disaster area designated by the Administrator.

(8) A certification that the State will pay its 25 percent share of all grants to individuals or families. If the State is unable immediately to pay its 25 percent share, the State may request an advance of Federal funds as identified in paragraph (h) of this section.

(e) *State Administrative Plan.* (1) The State will develop a plan for the administration of the Individual and Family Grant Program that includes, but is not limited to:

(i) Assignment of grant program responsibilities to State officials or agencies.

(ii) Methods and procedures for notification of potential applicants to include the publication of pertinent time limitations.

(iii) Provisions for accepting applications, including the establishment of local application centers.

(iv) Administrative procedures for:

(A) Verifying necessary expenses and serious needs.

(B) Determining applicant eligibility and grant amounts by a panel of at least three State employees.

(C) Determining the need for flood insurance.

(D) Processing applicant appeals.

(E) Disbursing grants.

(F) Verifying grant expenditures by sampling not less than five percent of approved grants.

(G) Recovering grant funds obtained fraudulently or expended for unauthorized items or services.

(H) Conducting a State audit.

(v) National eligibility criteria as defined in paragraph (c) of this section.

(vi) Provisions for compliance with §§ 2205.13, 2205.15, and 2205.18 of these regulations and the Flood Disaster Protection Act of 1973 (Pub. L. 93-234, 87 Stat. 975) and the Federal Insurance Administration Regulations, 24 CFR Parts 1909 et seq.

(2) The Governor or his representative may request the Regional Director to provide technical assistance in the preparation of an administrative plan to implement the Individual and Family Grant Program.

(3) The Regional Director will review the State administrative plan for each disaster for which assistance is requested under this section to insure that the requirements of these regulations have been met. The Regional Director may defer approval of a State administrative plan until any deficiencies have been corrected.

(4) The State administrative plan is to be made part of the State's emergency plan, as described in § 2205.4 of these regulations.

(f) *Limitation on grants.* (1) The Federal grant under this part shall be equal to 75 percent of the actual cost of meeting necessary expenses or serious needs of individuals and families, plus State administrative expenses not to exceed 3 percent of the total Federal grant, and

shall be made only on condition that the remaining 25 percent of such actual cost is paid to such individuals and families from funds made available by the affected State.

(2) An individual or family shall not receive a grant or grants under the provisions of this section aggregating more than $5,000 with respect to any one major disaster. Such aggregate amount shall include both the Federal and State share of the grant.

(g) *Time limitations.* (1) In the administration of the Individual and Family Grant Program authorized under section 408 of the Act, the following time limitations will be applicable except as described in paragraph (g)(2) of this section:

(i) Should the Governor decide to request assistance under this section, he must submit such request no later than seven days following the date on which the major disaster was declared and in the manner set forth in paragraph (d) of this section.

(ii) The State will accept applications from individuals or families for a period of 60 days following the date on which the major disaster was declared.

(iii) Any application filed after the 60-day period stated above must be reviewed by the State to determine whether the late filing was the result of extenuating circumstances or conditions beyond the control of the individual or family. If such conditions or circumstances are demonstrated, the State will determine that good cause existed for late filing and accept that application as though it had been filed on a timely basis; otherwise, the application will be rejected.

(iv) No application will be accepted by the State if it is filed more than 90 days following the date on which the major disaster was declared.

(v) All administrative activities, including the submission of final reports, State audits, and vouchers to the Regional Director, shall be completed by the State within 180 days following the date on which the major disaster was declared.

(2) The Regional Director may extend any time limitation set forth above for a period not to exceed 30 days. If all appeals to the State have been resolved and all grants disbursed, the Regional Director may further extend the 180-day time limitation contained in paragraph (g)(1)(v) above for a period not to exceed 90 days. The Administrator may further extend any of the above time limitations.

(h) *Advance of State share.* (1) If the State is immediately unable to pay its 25 percent share of the grants to be made under this section, the Governor may request that this amount be advanced by the Federal Government. Requests for such advances will be made to the Regional Director and will include the following:

(i) A certification that the State is immediately unable to pay its 25 percent share and an explanation of the reasons therefor.

(ii) A statement as to the specific actions taken or to be taken to overcome the inability to provide the State share, including a time schedule for such actions.

(iii) A commitment to repay the Federal advance at the time the State is able to do so.

(iv) An estimate of the total amount needed to meet the 25 percent State share.

(v) An agreement to return immediately upon discovery all Federal funds advanced to meet the State's 25 percent share which exceed actual requirements.

(2) Failure to repay the advance of the State share, in accordance with the time schedule in paragraph (h)(1)(ii) of this section, may result in the withholding by the Federal Government of subsequent advances under this section.

(3) Any advance of the State's share not repaid to the Federal Government by the repayment date established by the time schedule in accordance with paragraph (h)(1)(ii) of this section, may, at the discretion of the Administrator, be recovered by the offset of Federal funds to which the State would otherwise be entitled under other sections of this Act.

(i) *Approval—Authorization of Funds.* (1) The Regional Director may approve Federal assistance and authorize advances of funds under this section upon his determination that:

(i) All required certifications and commitments have been completed by the Governor;

(ii) The administrative plan provided by the State to implement the Individual and Family Grant Program meets the requirements of these regulations.

(2) The Regional Director may authorize Federal assistance based on his estimate of the amount required to meet the necessary expenses or serious needs of disaster victims.

(j) *Reimbursement to the State.* Reimbursement to the State of the Federal share of eligible costs will be on the basis of a voucher filed by the State and approved by the Regional Director. If a State presents a voucher which includes a claim for a grant that is improperly or inadequately documented, or not made in conformity with the State Administrative Plan, such claim shall be suspended by the Regional Director. The State may include a claim for a grant that was made on the basis of fraudulent information, or that was misapplied by the grant recipient. If the State has taken the action required by its Administrative Plan, but has been unable to recover the grant funds, the claim may be approved for payment by the Regional Director.

(k) *Audits.* The State shall perform a site audit on each grant program in accordance with audit guidelines provided by the HUD Inspector General. All claims are subject to Federal audit.

(Sec. 408, Pub. L. 93-288, 88 Stat. 156 (42 U.S.C. 5178); E.O. 11795 as amended by E.O. 11910, 39 FR 25939; Delegation of Authority, 29 FR 28227.

Issued at Washington, D.C., June 30, 1977.

THOMAS P. DUNNE,
Administrator, Federal Disaster Assistance Administration.

[FR Doc.77-19825 Filed 7-8-77;8:45 am]

Title 28—Judicial Administration

CHAPTER I—DEPARTMENT OF JUSTICE

[Order No. 731-77]

PART 42—NONDISCRIMINATION: EQUAL EMPLOYMENT OPPORTUNITY; POLICIES AND PROCEDURES

Subpart A—Equal Employment Opportunity Within the Department of Justice

REMEDIAL ACTION IN EEO COMPLAINTS

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: On May 9, 1977, the regulations governing discrimination complaints filed by employees and applicants for employment in the Department of Justice were amended to provide that any remedial action ordered by the Complaint Adjudication Officer in cases where no discrimination is found shall have the prior approval of the Assistant Attorney General in charge of the Civil Rights Division in consultation with the Deputy Attorney General. (42 FR 25724, May 19, 1977) This order further amends the regulations to provide that the consultation shall be with the Associate Attorney General instead of the Deputy Attorney General, in view of the respective management functions of those officials.

EFFECTIVE DATE: June 29, 1977.

FOR FURTHER INFORMATION CONTACT:

John M. Harmon, Acting Assistant Attorney General, Office of Legal Counsel, U.S. Department of Justice, Washington, D.C. 20530 (202-739-2041).

§ 42.2 [Amended]

By virtue of the authority vested in me by 28 U.S.C. 509, 510, and 5 U.S.C. 301, and in conformity with 5 CFR Part 713, § 42.2(b) of Subpart A of Part 42 of Title 28, Code of Federal Regulations, is amended by substituting "Associate Attorney General" for "Deputy Attorney General."

Dated: June 29, 1977.

GRIFFIN B. BELL,
Attorney General.

[FR Doc.77-19624 Filed 7-8-77;8:45 am]

Title 32—National Defense

CHAPTER V—DEPARTMENT OF THE ARMY

PART 581—PERSONNEL REVIEW BOARD

Army Discharge Review Board Rules

AGENCY: Department of the Army, DOD.

ACTION: Final rule.

SUMMARY: The revised rules of procedure governing the Army Discharge Re-

view Board were published as FR Doc. 77-7064 on March 10, 1977 (42 FR 13274). The revised rules of procedure are amended. This amendment is made in compliance with the Stipulation of Dismissal in the Case of *Urban Law Institute of Antioch College, Inc., et al.* v. *Secretary of Defense, et al.* Certain modifications are made in terminology and a paragraph is added to indicate where inquiries for indexes should be addressed.

EFFECTIVE DATE: July 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Albert A. Covington, Legal Advisor, OX 73518.

Dated: June 28, 1977.

WILLIAM E. WEBER,
Colonel, Infantry, President, Army Discharge Review Board.

In consideration of the foregoing and by authority of section 301, Title 1, Act of 22 June 1944 (10 U.S.C. 1553), the rules of procedure of the Army Discharge Review Board in § 581.2 are amended by revising paragraphs (e)(7), (h)(1) (ii) and (iii), and (h)(11) and by adding new paragraph (h)(12) as follows:

§ 581.2 Army Discharge Review Board.

* * * * *

(e) * * *

(7) * * * Applicants may be provided a form for this purpose which must be completed or amended prior to the closing of the hearing of panel or Hearing Examiner.

* * * * *

(h) * * *

(i) * * * (ii) Findings on all issues of fact, law, or discretion upon which the panel's determination is based, including factors required by applicable AR's when such factor(s) is (are) a basis for denial of any relief requested.

(iii) Findings and conclusions on all other issues of fact, law, or discretion raised by the applicant, including claims by the applicant that statutory, regulatory or constitutional provisions were violated, and such other claims made by the applicant, which in the opinion of the panel would warrant greater relief than that afforded applicant by the panel's determination if resolved in the applicant's favor.

* * * * *

(11) Each index shall also be made available at all regional locations where ADRB panels shall meet to hear cases. Notice of hearings to applicants shall include information as to where the ADRB indexes may be located for inspection and copying. Indexes shall be permanently maintained only at permanent regional locations.

(12) Inquiries concerning indexes should be addressed to the Armed Forces Discharge Review/Correction Boards Reading Room, the Pentagon Concourse, Washington, D.C. 20310.

* * * * *

[FR Doc.77-19545 Filed 7-8-77;8:45 am]

CHAPTER VI—DEPARTMENT OF THE NAVY

Privacy Act of 1974; Additional Exemption

PART 701—AVAILABILITY OF DEPARTMENT OF THE NAVY RECORDS AND PUBLICATION OF DEPARTMENT OF THE NAVY DOCUMENTS AFFECTING THE PUBLIC

[SECNAVINST 5211.5A]

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: This rule adds an exemption to the Department of the Navy Privacy Act rules for records compiled by the Bureau of Medicine and Surgery that pertain to the discovery and reporting of incidents of child abuse and neglect. Exemptions are needed in order to encourage persons having knowledge of abusive or neglectful acts toward children to report such information, and to protect such sources from embarrassment or recriminations, as well as to protect their right to privacy.

EFFECTIVE DATE: July 11, 1977.

FOR FURTHER INFORMATION CONTACT:

Captain L. J. Schaffner, MSC, USN, Director, Health Records Division, Bureau of Medicine and Surgery, Department of the Navy, 23rd and C Streets NW., Washington, D.C. 20372 (202-254-4082).

SUPPLEMENTARY INFORMATION: On April 29, 1977, a notice of proposed rulemaking was published (42 FR 21817) to amend Subpart G of Part 701 of 32 CFR (41 FR 50661), entitled "Privacy Act Exemptions," by adding a new subparagraph (m) entitled "Bureau of Medicine and Surgery" to § 701.123 which would exempt portions of a Navy system of records identified as N 00018 10, entitled "Child Advocacy Program Files," pursuant to 5 U.S.C. 552a(k) (2) and (5).

In response to the Navy's request for public comment, one was received. The respondent said that subparagraph (m) to § 701.123 of 32 CFR should not be adopted. Because the routine uses for records in the Child Advocacy Program Files system include disclosure for the purposes of litigation and determining personnel suitability for assignments and continued military service, the commenter expressed concern that the exemptions would seriously abridge the rights of suspected or confirmed child abusers or neglecters to information which may restrict or curtail their military careers. The comment was carefully considered. The known incidents of child abuse and neglect within the armed forces are on the rise. Many cases, however, go unreported because persons with knowledge of such acts are reluctant to come forward with information for fear of reprisals. Unless the identities of abusive and neglectful persons can be readily and effectively ascertained, efforts to treat them and rehabilitate the family relationship will be foreclosed. Therefore, the need to maintain the confidentiality of sources far outweighs individual interests in obtaining access to the identities of such sources. Further, many states require that cases of child abuse and neglect be reported to local authorities for further investigation and possible civil or criminal prosecution. For these reasons, the exemptions claimed pursuant to 5 U.S.C. 552a(k)(2) are entirely appropriate and necessary. It has been determined, however, that it would be inappropriate to claim any exemption for this records-system under 5 U.S.C. 552a(k)(5) because the records contained therein are not investigatory materials compiled solely for the purpose of determining suitability, eligibility, or qualifications for military service or access to classified information.

Accordingly, Subpart G of Part 701 of 32 CFR is amended by adding a new subparagraph (m) to § 701.123 as follows:

§ 701.123 Exemptions for specific Navy record systems.

* * * * *

(m) *Bureau of Medicine and Surgery.*

(1) ID-N0001810.

SYSNAME—Child Advocacy Program Files.

EXEMPTION—Portions of this system of records are exempt from the following subsections of 5 U.S.C. 552a: (c)(3) and (d).

AUTHORITY—5 U.S.C. § 552a(k)(2).

REASONS—Exemptions are needed in order to encourage persons having knowledge of abusive or neglectful acts toward children to report such information, and to protect such sources from embarrassment or recriminations, as well as to protect their right to privacy. It is essential that the identities of all individuals who furnish information under an express promise of confidentiality be protected. Additionally, granting individuals access to information relating to criminal and civil law enforcement, as well as the release of certain disclosure accountings, could interfere with ongoing investigations and the orderly administration of justice, in that it could result in the concealment, alteration, destruction, or fabrication of information; could hamper the identification of offenders or alleged offenders and the disposition of charges; and could jeopardize the safety and well being of parents and their children.

Dated: June 10, 1977.

K. D. LAWRENCE,
Captain, JAGC, U.S. Navy, Deputy Assistant Judge Advocate General, Administrative Law.

MAURICE W. ROCHE,
Director, Correspondence and Directive, OASD (Comptroller).

JULY 6, 1977.

[FR Doc.77-19707 Filed 7-8-77;8:45 am]

Title 39—Postal Service

CHAPTER I—U.S. POSTAL SERVICE

PART 601—PROCUREMENT OF PROPERTY AND SERVICES

Miscellaneous Amendments to Postal Contracting Manual

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: The Postal Service hereby announces revisions of the Postal Contracting Manual. The revisions, which affect the procurement of mail transportation services, include new delegations of contracting authority occasioned by the establishment of new contracting offices for mail transportation, and minor procedural changes in the solicitation and award of mail transportation contracts. Further, a requirement is added for the consent of a surety to a bidder's modification of a bid, and provision is made for the extension of mail transportation contracts for short periods. Other changes are made to reconcile conflicting provisions of the regulations. Finally, interim changes to various contract forms are prescribed pending revision of the forms.

EFFECTIVE DATE: July 11, 1977.

FOR FURTHER INFORMATION CONTACT:

William J. Jones (202-245-4603).

SUPPLEMENTARY INFORMATION: The Postal Contracting Manual, which has been incorporated by reference in the FEDERAL REGISTER (see 39 CFR 601.-100), has been amended by the issuance of Transmittal Letter 25, dated June 27, 1977.

In accordance with 39 CFR 601.105 notice of these changes is hereby published in the FEDERAL REGISTER as an amendment to that section and the text of the changes is filed with the Director, Office of the Federal Register. Subscribers to the basic Manual will receive these amendments from the Government Printing Office. (For other availability of the Postal Contracting Manual, see 39 CFR 601.104.)

Description of these amendments to the Postal Contracting Manual follow:

SECTION 19—MAIL TRANSPORTATION CONTRACTING

1. Paragraph 19-117.5 has been revised to update the positions delegated authority and assigned responsibility to act as contracting officers for the transportation of mail.

2. Paragraph 19-117.6 has been revised to update the provisions concerning approval of proposed procurement actions that exceed the delegated authority of the contracting officer.

3. Paragraph 19-130.3(c) has been revised to update the provisions concerning posting of Invitations for Bids.

4. Paragraph 19-130.73 has been revised to require surety approval of modifications to bids when a bond is required. The surety approval must be confirmed by written or telegraphic notice received by the bid custodian prior to bid opening.

5. Paragraph 19-130.871 has been changed to require that a copy of the contract be sent to the successful bidder along with the Form 7409, Notice of Acceptance—Transportation Services Bid or proposal.

6. Paragraph 19-130.881 has been revised to delete as a basis for bid rejection the prospective contractor's willful or negligent failure to perform under a prior contract. This information shall, however, be taken into consideration in determining the responsibility of the prospective contractor (see 19-122).

7. Paragraph 19-132.4 has been added to provide a means by which the term of a contract may be extended, when required due to service exigencies beyond the control of the contracting officer and a short term renewal or reprocurement would not be in the best interest of the Postal Service.

8. Paragraph 19-305(c) has been added, which requires that copies of certain solicitations be provided to the American Postal Workers Union, pursuant to its Memorandum of Understanding with the Postal Service.

9. Paragraph 19-307.1 has been revised to update the procedures to be followed in awarding advertised contracts that meet the criteria of the Memorandum of Understanding between the American Postal Workers Union and the Postal Service.

10. Paragraph 19-310.4 has been revised to expand the conditions under which highway transportation contracts may not be renewed.

11. Paragraph 19-314.3(b) has been revised, by deletion of the last sentence, to conform to the provisions of 19-124.4 and 19-127.3 concerning assessment of damages.

12. Paragraph 19-317.1 has been revised to correct a paragraph reference.

13. Paragraph 19-810.53(a) has been revised to change the form to be utilized when issuing an order fining the contractor on air transportation contracts.

14. Paragraph 19-810.53(b) has been revised, by deletion of the last sentence, to conform to the provisions of 19-124.4 and 19-127.3 concerning assessment of damages.

15. The remainder of the changes are minor, editorial, or technical in nature.

In consideration of the foregoing, 39 CFR 601.105 is amended by adding the following to § 601.105.

§ 601.105 Amendments to the Postal Contracting Manual.

* * * * *

Amendments to postal contracting manual

Transmittal letter	Date	FEDERAL REGISTER publication
* * * * *		
25	June 27, 1977	42 FR

(5 U.S.C. 552(a) (39 U.S.C. 401, 404, 410, 411, 2008).)

W. ALLEN SANDERS,
Assistant General Counsel,
Legislative Division.

[FR Doc.77-19553 Filed 7-8-77;8:45 am]

Title 41—Public Contracts and Property Management

CHAPTER 105—GENERAL SERVICES ADMINISTRATION

[ADM 5420.40B]

PART 105-54—ADVISORY COMMITTEE MANAGEMENT

GSA-Sponsored Advisory Committees

AGENCY: Office of Administration, General Services Administration.

ACTION: Final rule.

SUMMARY: This regulation sets forth revisions to policies and procedures in GSA regarding the establishment, operation, termination, and control of advisory committees under GSA's responsibility. These revisions are necessary to comply with recently announced Federal guidelines concerning advisory committees. The revisions are intended to provide the most up-to-date procedures needed to effectively carry out the advisory committee function in GSA.

EFFECTIVE DATE: This regulation is effective June 22, 1977.

FOR FURTHER INFORMATION CONTACT:

Kenneth L. George, Management Systems Division, Office of Management Services, Office of Administration, General Services Administration, Washington, DC 20405 (202-566-1777).

SUPPLEMENTARY INFORMATION: These revisions are necessary to implement in GSA recent guidelines for use in reporting and estimating the costs of advisory committees issued by the Office of Management and Budget; the provisions of Public Law 94-409, Government in the Sunshine Act, regarding the closing to the public of advisory committee meetings; and the provisions of a recent Presidential memorandum relating, in part, to the establishment and continuation of advisory committees. These revisions are also necessary to change the reference of the Assistant Administrator to the Deputy Administrator, who is now responsible for coordination and control of committee management in GSA; to reference new Standard Forms for use in preparing the Annual Report on Federal Advisory Committees; and to change the date the report is due.

The table of contents for Part 105-54, is amended by adding the following entry:

Sec.
105-54.303a Cost guidelines.

Subpart 105-54.1—General Provisions

1. Section 105-54.102(a)(3) is revised as follows:

§ 105–54.102 Definitions.

(a) * * *

(3) Established or utilized by one or more agencies to obtain advice or recommendations for the President or for one or more agencies or officers of the Federal Government. The term "advisory committee" excludes the Advisory Commission on Intergovernmental Relations and any committee which is composed wholly of full-time officers of the Federal Government.

* * * * *

2. Section 105–54.104(a) is revised as follows:

§ 105–54.104 Responsibilities.

(a) Responsibility for coordination and control of committee management in GSA is vested in the Deputy Administrator. This responsibility will be exercised through the Director of Management Services, OAD, or his designee, who shall serve as the GSA Committee Management Officer. This Officer shall, on behalf of the Deputy Administrator, carry out the functions prescribed in section 8(b) of the Federal Advisory Committee Act. Specifically, he shall control and supervise the establishment, procedures, and accomplishments of GSA-sponsored advisory committees. This control and supervision shall be adequate to ensure compliance with the GSA guidelines provided by these regulations.

* * * * *

Subpart 105–54.2—Establishment of Advisory Committees

1. Section 105–54.201 is amended to read as follows:

§ 105–54.201 Proposals for establishing advisory committees.

The Head of a Service or Staff Office may propose establishment of a Central Office or regional advisory committee within the scope of his program responsibilities. In doing so, the Head of the Service or Staff Office should pay particular attention to the President's statement in his memorandum to the Heads of Executive Departments and Agencies, dated February 25, 1977, that * * * "I want you to undertake a continuing effort to assure that no new advisory committees are established unless they are essential to meet the responsibilities of the Government." Accordingly, the Head of a Service or Staff Office shall establish no new advisory committees unless there is a compelling need for the committees, the committees have a truly balanced membership, and the committees conduct their business as openly as possible consistent with the law and their mandate. Each proposal shall be submitted to the Deputy Administrator (Attn: GSA Committee Management Officer) for review and coordination and shall include the following:

* * * * *

2. Section 105–54.202(a) is revised as follows:

§ 105–54.202 Review and approval of proposals.

(a) The GSA Committee Management Officer shall review each proposal for establishment of an advisory committee to ensure conformity with GSA committee management policies and procedures. Thereafter, the letter of justification addressed to the Director of the Office of Management and Budget shall be forwarded through the Deputy Administrator to the Administrator of General Services for his signature.

* * * * *

3. Section 105–54.203 is revised as follows:

§ 105–54.203 Advisory committee charters.

No advisory committee may meet or take any action until its charter has been approved by the Administrator of General Services and forwarded by the Deputy Administrator to the standing committees of the Senate and the House of Representatives having legislative jurisdiction over GSA. This requirement applies to committees used as advisory committees though not established for that purpose, but only to the extent that the group performs the function of advising a GSA official.

4. Section 105–54.203–1 is amended as follows:

§ 105–54.203–1 Preparation of charters.

(a) The Head of Service or Staff Office having jurisdiction over an advisory committee shall, following publication of the Federal Register notice regarding the establishment of that committee, prepare the committee's charter in accordance with this § 105–54.203. The completed charter shall be forwarded to the Deputy Administrator (Attn: GSA Committee Management Officer) for review, submission to the Administrator for approval, and filing.

* * * * *

Subpart 105–54.3—Advisory Committee Procedures

1. Section 105–54.301–1 is revised as follows:

§ 105–54.301–1 Agenda.

An agenda shall be prepared or approved by the Government chairman or designated Government official for each meeting of an advisory committee. The agenda shall list the matters to be considered at the meeting and shall indicate whether any part of the meeting will be closed to the public under the provisions of 5 U.S.C. 552b(c) (Government in the Sunshine Act). Ordinarily, copies of the agenda shall be distributed to committee members before the date of the meeting.

2. Section 105–54.301–2 is revised as follows:

§ 105–54.301–2 Security clearance.

All persons attending advisory committee meetings at which classified information will be considered are required to have an adequate security clearance.

3. Section 105–54.301–3 is revised as follows:

§ 105–54.301–3 Time and place.

Meetings shall be held only at the time and place determined or approved by the Government chairman or designated Government official. Unless otherwise authorized, meetings shall be held in space under the control of the Government.

4. Sections 105–54.301–4 (a) and (b) are revised as follows:

§ 105–54.301–4 Public notice of meetings.

(a) The Head of the responsible Service or Staff Office or Regional Administrator shall give timely notice of each advisory committee meeting by publication of a notice, over his signature, in the FEDERAL REGISTER at least 15 calendar days before the date of the meeting. (Material for publication in the FEDERAL REGISTER is submitted through the Federal Register liaison officer (BRAI).) Shorter advance notice may be provided in emergency situations, and the reasons for emergency exceptions shall be made part of the meeting notice. In giving notice, consideration must be given to the processing time required to get the notice printed in the FEDERAL REGISTER (at least 4 workdays). In addition to the notice in the FEDERAL REGISTER, announcements may also be made by general press release, direct mailing, publication in trade and professional journals appropriate to the nature of the committee meeting, or to special interest and community groups which may be affected by the committee's deliberations.

(b) The fact that a meeting may be closed to the public pursuant to the exemptions under the Government in the Sunshine Act does not, in general, relieve GSA of the requirements for publication of a notice of that meeting. An exception from this notice requirement may be authorized for reasons of national security by the Director of the Office of Management and Budget upon request by the Administrator at least 30 calendar days before the meeting.

* * * * *

5. Section 105–54.301–6(e) is revised as follows:

§ 105–54.301–6 Public attendance and participation.

* * * * *

(e) An advisory committee meeting will not be open to the public, nor will the attendance, appearance, or filing of statements by interested persons be permitted, whenever the Administrator of General Services determines that the meeting is concerned with matters covered by the exemptions to the Government in the Sunshine Act (5 U.S.C. 552b (c)) and there is sufficient reason to invoke any of these exemptions. If it is determined that only a portion of the

meeting is concerned with these matters, only that portion of the meeting shall be closed. Any determinations concerning the closing of meetings shall be submitted in writing by the Head of the Service or Staff Office or Regional Administrator to the Administrator for approval at least 30 calendar days in advance of the scheduled date of the meeting. These determinations should clearly set forth the reasons for closing the meeting. These determinations shall be made available to the public on request.

* * * * *

6. Section 105-54.302 is revised as follows:

§ 105-54.302 Committee records and reports.

(a) Subject to the Freedom of Information Act (5 U.S.C. 552), the records, reports, transcripts, minutes, appendixes, working papers, drafts, studies, agenda, or other documents that were available to or prepared for or by a GSA advisory committee shall be available (until the committee ceases to exist) for public inspection and copying in the office of the Government chairman or designated Government official of the committee. Requests for inspection or copying of these records shall be processed in accordance with the provisions found in 41 CFR 105-60.4. Except where prohibited by contractual agreement entered into before January 5, 1973, copies of transcripts, if any, of advisory committee meetings shall be made available by the Government chairman or designated Government official to any person at the actual cost of duplication. After the committee has been terminated, disposition of the committee documents enumerated above and the subsequent release of information therefrom shall be in accordance with existing Federal records, statutes, and regulations.

(b) Subject to 5 U.S.C. 552(b) and instructions of the Director of the Office of Management and Budget, at least eight copies of each report made by an advisory committee shall be filed by its Government chairman or designated Government official with the Library of Congress at the time of its issuance. Where appropriate, copies of background papers prepared by consultants to the advisory committee shall also be filed with the Library of Congress. The letter of transmittal shall identify the materials being furnished, and a copy of the transmittal shall be provided to the GSA Committee Management Officer.

7. Section 105-54.303a is added as follows:

§ 105-54.303a Cost guidelines.

(a) The reporting and estimating of the costs of advisory committees shall include direct obligations for the following items:

(1) Personnel compensation of committee members; consultants to the committee; all permanent, temporary, or part-time (GS, WB, or other) positions which are a part of or supportive to the committee; and all overtime related to committee functions (Personnel compensation should reflect all actual or estimated Federal person-years or parts thereof devoted to a particular committee's activities. It should also include the compensation of Federal employees assigned to committees, on a reimbursable or nonreimbursable basis, from agencies or departments other than that to which the committee reports.);

(2) Personnel benefits associated with the above compensation (10 percent of basic payroll);

(3) Travel costs (including per diem) of committee members; consultants; and all permanent, temporary, or part-time positions which are a part of or supportive to the committee;

(4) Transportation of things, communications, and printing and reproduction;

(5) Rent for additional space acquired for committee use;

(6) Other services required by the committee, including data processing services, management studies and evaluations, contractual services, and reimbursable services; and

(7) Supplies, materials, and equipment acquired for committee use.

(b) The reporting and estimating of the costs of advisory committees shall not include indirect or overhead costs; e.g., the costs of the committee management system (committee management officers, etc.).

8. Section 105-54.304 is amended by adding new paragraph (a-1) as follows:

§ 105-54.304 Renewal of advisory committees.

* * * * *

(a-1) Advisory committees shall not be renewed unless there is a compelling need for the committees, the committees have a truly balanced membership, and the committees conduct their business as openly as possible consistent with the law and their mandate.

* * * * *

Subpart 105-54.4—Reports

Section 105-54.401 is revised as follows:

§ 105-54.401 Reports on GSA Federal Advisory Committees.

(a) By January 5 of each year, the Head of the Service or Staff Office shall conduct a comprehensive review of each advisory committee under his jurisdiction in existence during the preceding calendar year and shall report to the Deputy Administrator (Attn: GSA Committee Management Officer) on the results of this review and on the activities of each committee. Detailed instructions for the conduct of the comprehensive review including preparation of the report will be issued by the GSA Committee Management Officer. The report on committee activities shall be submitted on the following report forms:

(1) Standard Form 248, Annual Report on Federal Advisory Committee (original and five copies);

(2) Standard Form 248-A, Annual Report on Federal Advisory Committee (continuation sheet) (original and five copies);

(3) Standard Form 249, Membership List on Federal Advisory Committee (original and five copies); and

(4) Standard Form 249-A, Membership List on Federal Advisory Committee (continuation sheet) (original and five copies).

* * * * *

(c) By January 15 of each year, the GSA Committee Management Officer shall submit to the Office of Records Management, NARS, the agency annual report required by FPMR 101-11.12. In addition to Standard Forms 248, 248-A, 249, and 249-A, the report will include Standard Form 250, Annual Report on Federal Advisory Committees Summary Sheet.

* * * * *

(Pub. L. 92-463 dated October 6, 1972; Executive Order 11769 of February 21, 1974; and Subpart 101-11.12 of Title 41, Code of Federal Regulations)

NOTE.—The General Services Administration has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

Dated: June 22, 1977.

JOEL W. SOLOMON,
Administrator of General Services.

[FR Doc.77-19536 Filed 7-8-77;8:45 am]

Title 46—Shipping

CHAPTER I—COAST GUARD, DEPARTMENT OF TRANSPORTATION

[CGD 75-041]

PART 31—INSPECTION AND CERTIFICATION

PART 151—UNMANNED BARGES CARRYING CERTAIN BULK DANGEROUS CARGOES

Loading Information for Tank Vessels; Correction

AGENCY: Coast Guard, DOT.

ACTION: Correction.

SUMMARY: This document corrects a rule appearing at page 28886 in the FEDERAL REGISTER of Monday, June 6, 1977 (FR Doc. 77-15962).

EFFECTIVE DATE: July 7, 1977.

FOR FURTHER INFORMATION CONTACT:

Captain George K. Greiner, Marine Safety Council (G-CMC/81), Room 8117, Department of Transportation, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590 (202-426-1477).

In FR Doc. 77-15962, appearing at page 28886 in the issue of Monday, June 6, 1977, make the following changes:

1. On page 28887, first column, the last line of § 31.10-32(a) should read "which begins on or after September 6, 1977."

2. On page 28887, first column, the second line of § 151.01-10(c-1) should

read "structed on or after September 6, 1977, that carries in bulk."

Dated: June 27, 1977.

E. L. PERRY,
Vice Admiral, U.S. Coast Guard,
Acting Commandant.

[FR Doc.77-19383 Filed 7-8-77;8:45 am]

Title 47—Telecommunications

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 21196; RM-2813]

PART 73—RADIO BROADCAST SERVICES

FM Broadcast Station in Windsor, N.C.; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Report and order.

SUMMARY: Action herein assigns first Class A FM channel to Windsor, North Carolina. Petitioner, Bermey E. Stevens, states that this action will provide Windsor with its first FM broadcast service.

EFFECTIVE DATE: August 15, 1977.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Mildred B. Nesterak, Broadcast Bureau (202-632-7792).

SUPPLEMENTARY INFORMATION:

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Windsor, North Carolina) (Docket No. 21196; RM-2813) Report and order (Proceeding Terminated).

Adopted: June 29, 1977.

Released: July 5, 1977.

By the Chief, Broadcast Bureau:

1. The Commission herein considers the Notice of Proposed Rule Making, adopted April 7, 1977, 42 FR 20644, in the above-captioned proceeding instituted in response to a petition filed by Bermey E. Stevens ("petitioner"), licensee of daytime AM Station WBTE, Windsor, North Carolina. The petition proposed the assignment of Channel 249A to Windsor, North Carolina, as a first FM channel to that community. Petitioner filed supporting comments in which he reaffirmed his intention to promptly file an application for a construction permit for use of the frequency, if assigned. No oppositions were filed.

2. Windsor (pop. 2,199),[1] seat of Bertie County (pop. 20,528), is located approximately 169 kilometers (105 miles) east of Durham, North Carolina.

3. In support of his proposal, petitioner submitted information with respect to Windsor and its need for a first FM channel assignment.

4. We have given careful consideration to the proposal and believe that Channel 249A should be assigned to Windsor, North Carolina. An interest has been shown for its use, and it would be in the public interest as it would provide the community with its first full-time aural broadcast service.

5. Authority for the adoption of the amendment contained herein appears in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and Section 0.281 of the Commission's Rules.

§ 73.202 [Amended]

6. In view of the foregoing, *it is ordered*, That effective August 15, 1977, § 73.202 (b) of the Commission's rules, the FM Table of Assignments, as regards Windsor, North Carolina, is amended to read as follows:

City	*Channel No.*
Windsor, N.C.	249A

7. *It is further ordered*, That this proceeding is terminated.

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc.77-19651 Filed 7-8-77;8:45 am]

[Docket No. 21192; RM-2819]

PART 73—RADIO BROADCAST SERVICES

FM Broadcast Station in Macomb, Ill.; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Report and order.

SUMMARY: Action herein assigns a second Class A FM channel to Macomb, Illinois. Petitioner, Ralph Trieger, states that a second FM station is needed to serve the growing population with an additional broadcasting service.

EFFECTIVE DATE: August 15, 1977.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Mildred B. Nesterak, Broadcast Bureau (202-632-7792).

SUPPLEMENTARY INFORMATION:

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Macomb, Illinois) (Docket No. 21192; RM-2819), Report and order (Proceeding Terminated).

Adopted: June 29, 1977.

Released: July 5, 1977.

By the Chief, Broadcast Bureau:

1. On April 4, 1977, the Commission adopted a Notice of Proposed Rule Making, 42 FR 20153, proposing the assignment of Channel 276A to Macomb, Illinois, as its second Class A FM assignment, at the request of Ralph Trieger ("petitioner"). Petitioner filed supporting comments in which he reaffirmed his intention to apply for Channel 276A, if assigned, and to build a station promptly if he receives a construction permit. No oppositions have been filed.

2. Macomb (pop. 19,643),[1] seat of McDonough County (pop. 36,653), is located 147 kilometers (92 miles) southwest of Peoria, Illinois. Macomb presently receives local service from daytime-only AM Station WKAI and Station WKAI-FM (Channel 261A), both licensed to William H. Rudolph.

3. Petitioner states that Macomb has had a population increase of 21% between 1970 and 1975. He notes that Macomb is a major trading center for the entire area of McDonough County. Petitioner asserts that the spendable income of Macomb and McDonough County has increased 100 percent over the past six years while retail sales have climbed more than 50 percent. He adds that a second FM station is needed to serve the growing population with additional broadcasting service.

4. Preclusion would occur on Channels 274, 275, 276A, and 277. Six communities with populations greater than 1,000 are located in the precluded area.[2] Of the six communities, Carthage and Canton, Illinois, and Mount Pleasant, Iowa, each have an AM station and a Class A FM assignment; Canton, Missouri, has a Class A FM assignment; and Bushnell and Rushville, Illinois, have no local aural broadcast service. An alternate channel is available for assignment to Rushville, but none for Bushnell. However, Bushnell is located 18 kilometers (11 miles) from Macomb, and petitioner states that he intends to locate his transmitter site midway between Bushnell and Macomb, thereby enabling a station to provide a city-grade signal to both communities. Meaningful program service to meet the problems, interests and needs of both Bushnell and Macomb would be provided. With these facts in mind, we do not believe preclusion should be an obstacle to the proposal here.

5. Petitioner's Roanoke Rapids study indicates that the proposed assignment would provide a first FM service to 949 persons in an area of 135 square kilometers (52 square miles), a second FM service to 26,980 persons in an area of 730 square kilometers (281 square miles) and a third FM service to 10,269 persons in an area of 655 square kilometers (252 square miles). Petitioner also states that 19,735 persons (including Macomb) in an area of 41 square kilometers (16 square miles) would receive a second nighttime aural service.

6. Upon careful consideration of the proposal herein, the Commission believes it would be in the public interest to assign Channel 276A to Macomb, Illinois. The proposed assignment would provide for an FM station which could render significant second FM and second night-

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[1] Population figures are taken from the 1970 U.S. Census.

[1] All population figures are taken from the 1970 U.S. Census.

[2] Illinois: Bushnell (pop. 3,703); Canton (14,184); Carthage (3,350); Rushville (3,300); Iowa: Mount Pleasant (7,007); Missouri: Canton (2,080).

time aural service to a substantial area. It would also provide a second local nighttime service and provide the first competitive outlet in the community.

7. Authority for the action taken herein is contained in Sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Section 0.281 of the Commission's Rules.

§ 73.202 [Amended]

8. In view of the foregoing, *it is ordered*, That effective August 15, 1977, § 73.202(b) of the Commission's Rules, the FM Table of Assignments, as regards Macomb, Illinois, is amended as follows:

City	Channel No.
Macomb, Ill	261A, 276A

9. *It is further ordered*, That this proceeding is terminated.

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc.77-19652 Filed 7-8-77;8:45 am]

[Docket No. 21048; RM-2370]

PART 73—RADIO BROADCAST SERVICES

FM Broadcast Station in Adel, Georgia; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Report and Order.

SUMMARY: Action herein assigns a first Class A FM channel to Adel, Georgia. Petitioner, Timberland Communications, Inc., states that a first local full-time service in Adel would fulfill a definite need for its citizens and would further stimulate the planned economic growth of the community.

EFFECTIVE DATE: August 15, 1977.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Mildred B. Nesterak, Broadcast Bureau. (202-632-7792).

SUPPLEMENTARY INFORMATION:

In the matter Amendment of Section 73.202(b), Table of Assignments, FM Broadcast Stations. (Adel, Georgia) (Docket No. 21048; RM-2370). *Report and order* (Proceeding Terminated).

Adopted: June 29, 1977.

Released: July 5, 1977.

By the Chief, Broadcast Bureau:

1. On January 13, 1977, the Commission adopted a *Notice of Proposed Rule Making*, 42 FR 4157, proposing the assignment of Channel 221A to Adel, Georgia, as its first FM assignment, at the request of Timberland Communications, Inc. ("petitioner"), licensee of daytime AM Station WBIT, Adel, Georgia. Petitioner filed supporting comments in which it reaffirmed its intention to expeditiously file an application for a facility on the proposed channel, if assigned, and if authorized to promptly build an FM station. No oppositions were filed.

2. Adel (pop. 4,972), seat of Cook County (pop. 12,129)[1] is located in the south-central region of Georgia approximately 209 kilometers (130 miles) south of Macon, 344 kilometers (214 miles) south of Atlanta, and 233 kilometers (145 miles) northwest of Jacksonville, Florida. Adel presently receives service from daytime AM Station WBIT, licensed to petitioner.

3. Petitioner states that, between 1960 and 1970, Adel's population increased 15.1%, and Cook County's population increased 2.6%. Adel has eighteen manufacturing industries which employ over 1,600 persons, two industrial areas which it hopes will attract new industry and a five-million dollar expansion by Weyerhauser Company. Petitioner states that a first local full-time service in Adel would fulfill a definite need of its citizens and would further stimulate the planned economic growth.

4. Because a Channel 221A assignment could potentially affect otherwise possible educational FM service, the *Notice* requested petitioner to furnish data showing the preclusionary effect, if any, of assigning Channel 221A to Adel upon the future assignment of educational stations on Channels 218, 219 and 220. Petitioner submitted a showing which indicates that the proposed assignment would have no preclusionary effect on any of the three educational channels assuming that all stations or assignments, or both, on Channels 218, 219 and 220 were Class C assignments. Assuming that Class A stations were to be assigned, preclusion would occur only on Channel 220A, affecting an area of some 1,000 square kilometers (400 square miles). Within this area, there are two communities (Tifton and Valdosta) with institutions of higher education. These institutions are now the licensees of educational FM stations and do not appear to warrant reservation of another FM assignment.

5. We have given careful consideration to the proposal and believe that Channel 221A should be assigned to Adel, Georgia. An interest has been shown for its use and the assignment would provide the community with an opportunity to acquire its first local aural broadcast transmission service which would be in the public interest.

6. Authority for the action taken herein is contained in Sections 4(i), 5(d)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's Rules.

§ 73.202 [Amended]

In view of the foregoing, *it is ordered*, That effective August 15, 1977, § 73.202(b) of the Commission's Rules, the FM Table of Assignments, as regards Adel, Georgia, is amended as follows:

City	Channel No.
Adel, Ga	221A

8. *It is further ordered*, That this proceeding is terminated.

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc.77-19653 Filed 7-8-77;8:45 am]

[1] Population figures are taken from the 1970 U.S. Census.

[Docket No. 21195; RM-2823]

PART 73—RADIO BROADCAST SERVICES

FM Broadcast Station in Wellington, Kansas; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Report and Order.

SUMMARY: Action taken assigning a first Class A FM channel to Wellington, Kansas. Petitioner, Sumner Broadcasting Company, states it has particular need for an FM station to provide local weather information and coverage of general events in the community. The assignment of this channel will provide for a first local aural broadcast facility in Wellington, Kansas.

EFFECTIVE DATE: August 15, 1977.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Mildred B. Nesterak, Broadcast Bureau. (202-632-7792).

SUPPLEMENTARY INFORMATION:

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Wellington, Kansas) (Docket No. 21195; RM-2823), Report and Order (Proceeding Terminated).

Adopted: June 29, 1977.

Released: July 5, 1977.

By the Chief, Broadcast Bureau:

1. The Commission has before it the Notice of Proposed Rule Making adopted April 7, 1977, 42 FR 20643, inviting comments on a proposal to assign Channel 228A to Wellington, Kansas, as its first FM assignment. The proceeding was instituted on the basis of a petition filed by Edwin D. and Zora B. Hundley, dba Sumner Broadcasting Company ("Petitioner"), licensee of daytime AM Station KLEY, Wellington, Kansas. Supporting comments were filed by petitioner. No oppositions were filed.

2. Wellington pop. 8,338),[1] seat of Sumner County (pop. 23,553), is located approximately 48 kilometers (30 miles) south of Wichita, Kansas. Petitioner states that Wellington's population has a particular need for an FM station to provide local weather information to the

[1] Population figures are taken from the 1970 U.S. Census.

farmers and workers, coverage of general events in the community and also to provide a new local competitive advertising outlet for retail business in Wellington and Sumner County. Petitioner reaffirmed its intention to apply for the channel, if assigned.

3. We believe that the public interest would be served by the assignment of Channel 228A to Wellington, Kansas. A demand has been shown for its use and such an assignment would provide the community with its first full-time local aural broadcast service. It can be made without affecting any existing assignment and would be consistent with the applicable minimum spacing requirements.

4. Authority for the adoption of the amendment contained herein appears in Sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's Rules.

§ 73.202 [Amended]

5. Accordingly, *it is ordered*, That effective August 15, 1977, § 73.202(b) of the Commission's Rules, the FM Table of Assignments, is amended as it pertains to the community listed below:

City	Channel No.
Wellington, Kans.	228A

6. *It is further ordered*, That this proceeding is terminated.

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc.77-19654 Filed 7-8-77;8:45 am]

Title 49—Transportation

CHAPTER I—MATERIALS TRANSPORTATION BUREAU, DEPARTMENT OF TRANSPORTATION

[Docket No. HM-151, Amdt. Nos. 171-36, 172-37]

PART 171—GENERAL INFORMATION, REGULATIONS, AND DEFINITIONS

PART 172—HAZARDOUS MATERIALS TABLE AND HAZARDOUS MATERIALS COMMUNICATIONS REGULATIONS

Label and Placard Colors; Hazard Numbers

Correction

In FR Doc. 77-18888 appearing at page 34283 in the issue for Tuesday, July 5, 1977, in the last paragraph of the document, first column, page 34288, the incorporation by reference date, now reading "July 30, 1977", should read "June 30, 1977".

SUBCHAPTER B—OFFICE OF PIPELINE SAFETY OPERATIONS

[Amdt. 192-28; Docket No. OPSO-37]

PART 192—TRANSPORTATION OF NATURAL AND OTHER GAS BY PIPELINE

Corrosion Control for Metal Alloy Fittings in Plastic Pipelines

AGENCY: Materials Transportation Bureau, Office of Pipeline Safety Operations, Department of Transportation.

ACTION: Final rule.

SUMMARY: This amendment permits the use of certain metal fittings in plastic pipelines without coating, cathodic protection, and monitoring when adequate external corrosion control is provided by alloyage. The full safety and economic advantage of these fittings cannot be realized under the present rule because of the cost and burden of providing cathodic protection and frequent monitoring.

EFFECTIVE DATE: This amendment becomes effective on August 12, 1977.

FOR FURTHER INFORMATION CONTACT:

Ralph T. Simmons (202-426-2392)

SUPPLEMENTARY INFORMATION: On September 22, 1976, the Materials Transportation Bureau (MTB) issued a notice of proposed rulemaking, Notice No. 76-1, (41 FR 42221, September 27, 1976), to exempt certain alloy fittings installed in plastic pipelines from the external corrosion control requirements of § 192.455. To qualify for exemption, it was proposed that the fittings be small, electrically isolated, and designed to prevent leakage caused by localized corrosion pitting, and that the operator demonstrate that adequate corrosion control is provided by alloyage. Interested persons were invited to submit written data, views, or arguments by November 1, 1976.

There were 24 persons who submitted written comments to Notice No. 76-1: 19 natural gas distribution companies, 3 state regulatory agencies, 1 trade association, and 1 manufacturer of fittings. All 24 commenters were favorable, in general, to the proposed amendment. A discussion of the significant comments which suggested that changes be made to the proposed amendment and the disposition of those comments in developing the final rule is contained in the "Discussion of the Comments" section of this preamble. Comments which suggested rule changes outside the scope of the proposed notice are not discussed but may be considered by the Materials Transportation Bureau (MTB) in any future rulemaking on corrosion control. Also, editorial changes in the final rule which do not alter the substance of the proposal are not discussed herein.

Discussion of comments. With regard to the term "small" in the proposed § 192.455(f), five commenters suggested that it either be deleted or defined since the term "small" without definition would be open to individual interpretation and could result in a nonuniform application of the regulations. Alternatively, these commenters suggested that the size of the fittings be limited to six inches or less in diameter and 12 inches or less in length. The commenters contend that such size would be sufficiently small to protect against electrolytic corrosion provided a fitting is electrically isolated. Five other commenters stated that any exemption of fittings should not be restricted by size. These commenters suggested that such a restriction would be unnecessary in view of the size limitations effectively placed on the use of plastic pipe in gas service by the available joining methods and by the cost of materials. (Presently, 12-inch diameter plastic pipe is the largest normally used in gas service.) These commenters also pointed out that the most relevant test of safety would be meeting the proposed requirement to demonstrate that corrosion is not a problem. Further, on this point, the Technical Pipeline Safety Standards Committee (TPSSC) stated that a size limitation might restrict the application of new technology and that adequate protection would be provided by requiring the operator to show by tests, investigation, or experience that adequate corrosion control is obtained through alloyage.

In the Notice, MTB noted that the term "small" is rather indefinite and requested specific comments on adoption of the term or any comparable restriction in the final rule. The term was included in the Notice because of evidence indicating that small components are not as susceptible to corrosion as larger ones. However, after considering all relevant information, MTB now believes that adoption of the term "small" could result in nonuniform application of § 192.455 and has deleted it in the final rule. Also, a size limitation is effectively created by present technology and economics related to the use of plastic pipe.

More significant than size, however, in protecting against corrosion is the fact that as discussed hereafter the operator would be required under § 192.455(f)(1) to show by tests, investigation, or experience that adequate corrosion control is provided by alloyage of the fitting material. To ensure that this restriction is appropriately applied in view of the deletion of the word "small," in the final rule, the proposed § 192.455(f)(1) is modified by the phrase "for the size of fitting to be used." This modification is consistent with a change recommended by the TPSSC.

Twelve commenters and the TPSSC felt that the word "metallic" should be substituted in the final rule for the word "alloy" used in the proposal. These commenters contend that metals other than Type 316 stainless steel are corrosion resistant and could do an equally satisfactory job in protecting against corrosion. Although the petition upon which Notice 76-1 was based referred to Type 316 stainless steel fittings, the proposed amendment was written to provide for the use of any alloy material that can provide the necessary corrosion resistance. Therefore, MTB has not adopted this proposed word change in the final rule. Also, in this regard, the TPSSC suggested that the word "fitting" be replaced by "component." This comment was not adopted, however, because the word "component" has a broader connotation than was intended by use of the word "fitting" in the Notice.

Five other commenters and the TPSSC suggested that the words "by alloyage" in the proposed § 192.455(f)(1) should be omitted. They argue that subpara-

graph (f)(1) would establish a good performance standard without the words "by alloyage" since the most important consideration is prevention of corrosion failures. Although this argument may be true, this comment was not adopted because the word "alloyage" is necessary to provide a definitive description of the type of corrosion control which is intended to qualify fittings for an exemption under § 192.455(f).

Nine commenters suggested that the proposed limitation under § 192.455(f)(2) (that a fitting be designed to prevent leakage due to corrosion pitting) either be deleted or adopted as an alternative to the proposed restriction of § 192.455(f)(1). Three commenters contended that in complying with either subparagraph (f)(1) or (f)(2), the corrosion problem is resolved.

MTB does not agree with these comments and for the following reasons did not adopt them in the final rule. Considering the lack of performance data available for the alloy fittings which might be used to qualify for an exemption from the cathodic protection and coating requirements of § 192.455(a), the variable corrosivity conditions in which fittings might be installed, and imprecise corrosivity measurement techniques available, MTB believes that an initial determination of the protection afforded by alloyage may not provide a sufficient, long-term safeguard against corrosion. As an additional factor in providing long-term protection, MTB believes that the fitting must also be "designed" to prevent any leakage that may be caused by localized corrosion.

Furthermore, for these same reasons relating to the possible uncertainty of future corrosion control performance, the final rule is changed by adding a subparagraph (f)(3) to require that each operator be able to identify the location of each fitting installed under § 192.455(f). This additional requirement appears necessary to protect the public interest, and it is consistent with the requirement of § 192.491 that an operator know the location of all cathodically protected piping. Subparagraph (f)(3) is intended to provide for any future inspection, repair, or replacement that might be required as a result of future rulemaking should any new information indicate a need for such remedial action.

In addition, MTB requests that operators voluntarily report the condition of any alloy fitting installed under § 192.455(f) which is uncovered for any reason. MTB is interested in receiving reports on corrosion performance of the fittings, especially any leakage of a fitting that is not required to be reported under §§ 191.5 and 191.9 of this chapter, and the number of fittings installed. These reports could be submitted by operators in letter form and need not be submitted more often than once a year, unless the operator desires to report more frequently. MTB expects that information obtained through the voluntary reporting may serve as a basis for a future rulemaking action either to relax the restrictions applicable to exemption under § 192.455(f) or to prescribe any necessary remedial measures, as the case may be.

Regarding the proposed § 192.455(f)(2), the TPSSC further suggested that the term "corrosion pitting" be replaced by "corrosion attack." This comment was not adopted for the sake of consistency since the term "corrosion pitting" is used elsewhere in Part 192.

Another commenter thought that an operator should not have to use tests, investigation, or experience "in the area of application" to show under § 192.455(f)(1) that alloy fittings provide adequate corrosion control. This commenter alleged that the testing, investigation, or experience in the corrosion studies reported in the National Bureau of Standard's (NBS) Circular No. 579 and two California field studies mentioned in the Notice are sufficient to allow a general exception without the need for an individual finding by each operator.

MTB does not agree. The NBS study compares the performance of certain materials under a limited number of environments. It did not establish a means to quantitatively measure the corrosivity of any environment in which a material might be used. Also, the two field studies conducted in California do not have universal application to all soils. Those studies are more indicative of local conditions. They include the type of testing and investigation that an operator might conduct in an area to determine whether fittings are adequately protected against corrosion by alloyage. For these reasons, MTB did not adopt the suggested change in the final rule.

Report of the Technical Pipeline Safety Standards Committee

Section 4(b) of the Natural Gas Pipeline Safety Act of 1968 requires that all proposed standards and amendments to such standards pertaining to gas pipelines be submitted to the Committee and that the Committee be afforded a reasonable opportunity to prepare a report on the "technical feasibility, reasonableness, and practicability of each proposal." The proposed amendment was submitted to the Committee as Item A-1 in a list of two proposed amendments at a meeting in Washington, D.C., on December 16 and 17, 1976. A minority report was not submitted.

On February 3, 1977, the Committee filed the following favorable report:

This communication is the official report of the Technical Pipeline Safety Standards Committee concerning the Committee's action on two amendments to 49 CFR Part 192 proposed by the Office of Pipeline Safety Operations and other matters which the Committee decided should be brought to the attention of the Department of Transportation.

The following described actions were taken by the Committee at a meeting held in Washington, D.C., on December 16 and 17, 1976.

Item A-1 of the agenda was a proposal by OPSO to revise § 192.455, External corrosion control. By an affirmative vote of 12-1 the Committee found that the following language for § 192.455 is technically feasible, reasonable, and practicable.

* * * * *

(The language suggested is adopted in the final rule except as discussed in the "Discussion of Comments Section" above.)

Principal Authors

Ralph T. Simmons, Regulations Specialist, George Mocharko, Staff Engineer, and Robert L. Beauregard, Attorney, Office of the General Counsel.

In consideration of the foregoing, § 192.455 of Title 49 of the Code of Federal Regulations is amended by amending paragraph (a) and adding a new paragraph (f) to read as follows:

§ 192.455 External corrosion control: buried or submerged pipelines installed after July 31, 1971.

(a) Except as provided in paragraphs (b), (c), and (f) of this section, each buried or submerged pipeline installed after July 31, 1971, must be protected against external corrosion, including the following:

* * * * *

(f) This section does not apply to electrically isolated, metal alloy fittings in plastic pipelines if—

(1) For the size fitting to be used, an operator can show by tests, investigation, or experience in the area of application that adequate corrosion control is provided by alloyage;

(2) The fitting is designed to prevent leakage caused by localized corrosion pitting; and

(3) A means is provided for identifying the location of the fitting.

(49 USC 1672; 49 CFR 1.53(a).)

Issued in Washington, D.C., on July 1, 1977.

Alan A. Butchman,
Acting Director, Materials Transportation Bureau.

[FR Doc.77-19421 Filed 7-8-77;8:45 am]

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER B—PRACTICE AND PROCEDURE

[Ex Parte No. 275]

PART 1115—ISSUANCE OF SECURITIES, ASSUMPTION OF OBLIGATIONS, AND FILING OF CERTIFICATES AND REPORTS

Expanded Definition of Term "Securities"

AGENCY: Interstate Commerce Commission.

ACTION: Amended application form.

SUMMARY: The Interstate Commerce Commission upon further consideration, adopted certain changes in the additional information required to be submitted with applications for authority by rail and motor carriers to insure compliance with antitrust statutes. The required statement as to the applicant's compliance with section 10 of the Clayton Act will be restricted to the transaction which is the subject of the application.

EFFECTIVE DATE: Stayed pending further order of the Commission.

FOR FURTHER INFORMATION CONTACT:

Philip Israel, Deputy Director, Section of Finance, Interstate Commerce Commission, Washington, D.C. 20423, Phone No. 202–275–7245.

SUPPLEMENTARY INFORMATION:

BACKGROUND

This proceeding was reopened by the Commission, upon its own motion, for further consideration, on the existing record, of the amendments to Form OP–F–200, the form for filing section 20a or 214 securities application. The United States Court of Appeals, District of Columbia Circuit, which has jurisdiction over the pending appellate review of the proceeding, approved the limited reopening and held the court litigation in abeyance. The effectiveness of the Commission's order has been stayed pending completion of that litigation.

CHANGES

The requirement that an applicant submit forecasts of its revenues, expenses, net income and cash flow for the twelve month period following the application date was deleted. However, the applicant must submit its cash flow statement for the twelve month period preceding the filing of the application.

The required statement as to the applicant's compliance with section 10 of the Clayton Act was restricted to the transaction which is the subject of the application.

The requirement of a description of the applicant's prior nonsecurity financing was retained for an interim period to cover nonsecurity financing that predates the effectiveness of the redefinition of securities.

The requirement that consolidated financial statements be submitted was also retained. However, the applicant need not show intercompany eliminations. Nor must it submit separate subsidiary financial statements. The nature of each subsidiary's business, its annual income, investment account and net worth are required.

The complete report and order is reported at 354 ICC 10.

Issued at Washington, D.C., May 13, 1977.

H. G. HOMME, Jr.,
Acting Secretary.

Part 1115 of Subchapter B of Chapter X of Title 49 of the Code of Federal Regulations is amended by deleting item 2 (e) (iii) of Form OP–F–200 (formerly Form BF–6) referred to in § 1115.1, redesignating item 2(e) (iv) of Form OP–F–200 as item 2(e) (iii) and amending the following items of Form OP–F–200 to provide:

§ 1115.1 [Amended]

* * * * *

Item 1(c). Is any director, president, manager, purchasing or selling officer, or agent of the applicant in the particular transaction which is the subject of this application also a director, manager, purchasing or selling officer, or the owner of a substantial interest in any other party to the transaction?

If so, include a statement clearly outlining the measures taken to insure that compliance with section 10 of the Clayton Antitrust Act (15 U.S.C. 20) has been achieved with respect to the proposed financing.

Item 2(d). Applicant shall file a description of the amounts, terms, and purposes of all nonsecurity financing for the current year and 2 previous calendar years, by separate category.

The terms of each category of nonsecurity financing shall include the interest rate, terms of repayment, collateral pledged as security therefore, material restrictions of such arrangements, as well as a detailed breakdown as to the use of the proceeds or credit thus obtained, specifically identifying uses for noncarrier purposes.

Information contained in prior applications and informaton supplied in the Annual Report in response to section III of the of the Corporate Disclosure Regulations, where applicable, may be incorporated by specific reference.

Item 2(e). Applicant shall file the following:

(i) Consolidated balance sheet and a consolidated income statement for applicant and its subsidiaries. The dates should correspond to those used in the statements submitted for (a) and (c) above.

(ii) A statement describing the nature of the business of each of applicant's subsidiaries, and a statement listing the annual net income and stockholder's equity (net worth) of each of the subsidiaries. Also, applicant shall furnish a schedule showing its net investment in each subsidiary as of the date of its balance sheet statement.

(iii) Applicant's cash flow statement for the 12 months preceding the filing of the application. This statement should show opening cash on hand, receipts by categories, disbursements by items, and cash balance at the end of the period, with a breakdown of funds flowing to and from the carrier subsidiaries.

[FR Doc.77–19610 Filed 7–8–77;8:45 am]

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 967]

CELERY GROWN IN FLORIDA

Proposed Handling Regulation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed regulation would establish the quantity of Florida celery to be marketed fresh during the 1977–78 season, with the objective of assuring adequate supplies and orderly marketing.

DATE: Comments due July 26, 1977.

ADDRESSES: Comments should be sent to: Hearing Clerk, Room 1077 South Building, U.S. Department of Agriculture, Washington, D.C. 20250. Two copies of all written comments shall be submitted, and they will be made available for public inspection at the office of the Hearing Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, AMS, U.S. Department of Agriculture, Washington, D.C. 20250. Telephone: (202) 447–3545.

SUPPLEMENTARY INFORMATION: Marketing Agreement No. 149 and Order No. 967, both as amended (7 CFR 967) regulate the handling of celery grown in Florida. It is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The Florida Celery Committee, established under the order, is responsible for local administration.

This notice is based upon the unanimous recommendations made by the committee at its public meeting in Orlando on June 15.

The committee recommended a Marketable Quantity of 8,082,572 crates of fresh celery for the 1977–78 season. This recommendation is based on the appraisal of the expected supply and prospective market demand for the 1977–78 season.

During the past decade, planted acreage in Florida has ranged between 12,200 and 13,000 acres per season. Yield is variable, mainly in response to weather, although unfavorable market conditions may sometimes reduce average output per acre. The 3.8 million hundredweight producted in 1976–77 was 4 percent below the previous season. The relatively small crop reflected the late January freeze which damaged the outer part of plants and reduced yield per acre.

The recommended 8.1 million crate Marketable Quantity is one-third more than the under 6 million crates expected to be marketed during the current season ending July 31, 1977. Each producer registered pursuant to § 967.37(f) would have an allotment equal to 100 percent of his historical marketings. This recommendation provides the industry an opportunity to (1) produce to its fullest capacity for the benefit of the consumer, and (2) determine its actual or potential maximum production capacity.

With no valid applicants for new or increased Base Quantities, no reserve is recommended for additional Base Quantities under § 967.37(d)(1).

On the basis of all considerations it is believed that this proposed regulation would tend to effectuate the declared policy of the act.

The proposal is as follows:

§ 967.313 Handling regulation; marketable quantity; and uniform percentage for the 1977–78 season ending July 31, 1978.

(a) The Marketable Quantity is established under § 967.36(a) as 8,082,572 crates of celery.

(b) As provided in § 967.38(a), the Uniform Percentage shall be 100 percent.

(c) Pursuant to § 967.36(b) no handler shall handle any harvested celery unless it is within the Marketable Allotment of a producer who has a Base Quantity and such producer authorizes the first handler thereof to handle it.

(d) No reserve for Base Quantities is established for the 1977–78 season.

(e) Terms used herein shall have the same meaning as when used in the said marketing agreement and order.

Dated: July 5, 1977.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.77-19616 Filed 7-8-77; 8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 39]

[Docket No. 77-WE-17-AD]

AIRWORTHINESS DIRECTIVES

McDonnell Douglas Model DC-9, -10, -20, -30, -40 and -50 Series

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rule making.

SUMMARY: This notice proposes to add an airworthiness directive that would require inspections and replacement of fuselage frame lower sections on McDonnell Douglas Model DC-9, -10, -20, -30, -40 and -50 series airplanes, to preclude possible cracking of the fuselage frames, that could result in a significant reduction of the structural integrity of the fuselage structure.

DATES: Comments must be received on or before August 15, 1977.

ADDRESSES: Send comments on proposal to: Department of Transportation, Federal Aviation Administration, Office of the Regional Counsel, Attn: A. D. Rules Docket, P.O. Box 92007 Worldway Postal Center, Los Angeles, California 90009.

FOR FURTHER INFORMATION CONTACT:

Jerry J. Presba, Executive Secretary, Airworthiness Directive Review Board Federal Aviation Administration, Western Region, P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009. Telephone: (213) 536-6351.

SUPPLEMENTARY INFORMATION: There have been reported instances of cracks found in the lower section of the fuselage frames at stations 718 (series-30), and 737, 756, 775 (series-40), which are located above the trapezoidal panel in the area of the main gear wheel well. The fuselage frames are made in three (3) segments; an upper half, and two lower side sections made from 7075-T6 heat treat "H" shaped forgings—the flanges facing fore and aft. All frames are "L" shaped at the bottom, except for one series of frames which has an additional tab that extends below the "L" and attaches to a trapezoidal panel below the floor, in the wheel well. The horizontal leg of the "L" is "I" shaped and is used to splice the frames to the passenger compartment floor beams. The cracks are occurring in the radius of the horizontal flanges on the "I" section and in the radius at the base of the pocket which is formed at the junction of the flanges of the vertical and horizontal portions of the "L", at the fuselage cusp (floor) line.

The cracks were detected on airplanes having between 13,700 and 21,500 hours time in service and are attributed to stress corrosion initiated by residual stresses induced during manufacture, and the added stresses caused by preload due to misalignment during installation.

Residual stresses are generally the result of certain heat treat processes and subsequent machining and/or forming operations during manufacture, particularly on large or thick sectioned high strength alloys of the wrought 7000 series, such as 7075 material in the –T6 heat treat condition.

The misalignment is attributed to shimming in the frame-to-floor beam splice area (Certain series—40 airplanes have the shallower, series –30 floor beams installed, therefore requiring the use of shims for aligning the floor level).

The manufacturer recommended that the 7075–T6 parts found cracked in service, be replaced with parts made from 7075–T73 heat treat material. The –T6 and –T73 suffixes designate the heat treat processes used in hardening the material. Although the –T73 process results in a reduction in static strength from that of the –T6 condition, the resistance to stress corrosion is improved.

As noted in paragraph A.1., certain DC–9 series airplanes have factory installed lower sections made from –T73 material. There are no known cases of stress corrosion cracks in these parts.

Except for the cracks that are located in the tab below the floor in the wheel well and which are easily detectable from the wheel well, the location of the other cracks in the three frames is such that the cracks could go unnoticed. These cracks are located in an area of the frame lower section that is buried between the fuselage outer skin and the passenger compartment lower side panels (lining), just below the upper level of the compartment floor. If this cracking were allowed to go undetected it could become detrimental to the structural integrity of the fuselage.

The manufacturer has issued Service Bulletin 53–100 in January 1970 (Revision No. 3, April 15, 1975) for inspection and repair of the tab cracks (fuselage stations 604, 718 and 756—DC–9 series –10, –20, –30, and –40).

Since this condition is likely to exist or develop in other airplanes of the same type design, the proposed airworthiness directive would require repetitive inspections and replacement of the fuselage station frame(s) lower section(s).

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Information on the economic, environmental, and energy impact that might result because of adoption of the proposed rule is requested.

Communications should identify the docket number and be submitted in duplicate to the Federal Aviation Administration, Western Region, Attention: Regional Counsel, Airworthiness Rule Docket, P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009. All communications received on or before August 15, 1977, will be considered by the Administrator before taking action upon the proposed rule.

The proposals contained in this notice may be changed in the light of comments received.

All comments will be available both before and after the closing date for comments, in the Rule Docket for examination by interested persons.

Drafting Information

The principal authors of this document are Harry J. Irwin, Aircraft Engineering Division, and Richard G. Wittry, Office of the Regional Counsel.

The Proposed Amendment

Accordingly, the Federal Aviation Administration proposes to amend Section 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new Airworthiness Directive:

McDonnell Douglas: Applies to Model DC–9–10, –20, –30, –40, and –50 Series airplanes, fuselage numbers, F/N 1 through F/N 625, certificated in all categories, which correspond to the factory serial numbers as provided below.

45695 through 45749; 45770 through 45799; 45825 through 45847; 45863 through 45876; 47000 through 47386; 47389 through 47396; 47399 through 47427; 47429 through 47451; 47453 through 47457; 47459; 47462; 47464 through 47466; 47472 through 47474; 47476 through 47482; 47487 through 47494; 47497 through 47503; 47505 through 47508; 47514; 47517 through 47519; 47522 and 47523; 47526 through 47530; 47535; 47547; and 47550.

Compliance required as indicated: To detect cracks in the fuselage frame(s) lower section(s), accomplish the following:

A. For airplanes with 12,000 hours or more time in service on the effective date of this A.D., within the next 1,900 hours time in service or 6 calendar months, whichever occurs earlier, unless previously accomplished within the last 1,900 hours time in service or 6 calendar months, prior to the effective date of this A.D., and thereafter at intervals not to exceed 3,800 hours time in service from the last inspection or 12 calendar months from the last inspection, whichever occurs earlier, inspect the left hand and right hand lower sections of the fuselage frames, listed in paragraph "C" below.

B. For airplanes with less than 12,000 hours in service on the effective date of this A.D., comply with paragraph "C" before the accumulation of 13,900 hours time in service.

C. Visually inspect for evidence of cracking, using dye penetrant methods and/or a magnifying glass with a minimum of 4 power, the fore and aft pocket areas at the junction of the vertical and horizontal legs of the frame lower section, immediately below the cusp line.

Frame station applicability

	Fuselage frame station		
DC–9–(series):			
–10, –20	585	604	623
–30	699	718	737
–40	737	756	775
–50	794	813	832

Note.—Unless it can be determined otherwise, all fuselage frames at the above listed frame stations are assumed to have had T–6 heat treat material lower sections installed at the factory.

D. Equivalent inspection procedures and modifications may be used when approved by the Chief, Aircraft Engineering Division, FAA Western Region.

E. If cracks are found, before further flight:

1. Replace with a new part(s) of the same design made from 7075–T6 material heat treat; or,

2. Replace with a new part(s) of the same design made from 7075–T73 heat treat material. The requirements per this A.D. may be terminated for that frame(s) only, when both the right and left hand lower sections, made from 7075–T73 heat treat material, have been installed.

3. If new parts are installed per E.1 above, the requirements of this A.D. may be discontinued for that part(s) only, until the new part(s) has accumulated 12,000 hours time in service, or within 40 calendar months after the part(s) has been replaced, whichever occurs earlier, at which time reinstate the program of repetitive inspections and/or corrective action per this A.D.

F. Special flight permits may be issued in accordance with FARs 21.197 and 21.199 to operate airplanes to a base for the accomplishment of inspections and/or maintenance required by this A.D.

(Sec. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.85.)

Note.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A–107.

Issued in Los Angeles, California on June 30, 1977.

M. C. Beard,
Acting Director,
FAA Western Region.

[FR Doc.77–19703 Filed 7–8–77;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 77–RM–7]

CONTROL ZONE

Proposed Alteration

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rule making.

SUMMARY: This notice proposes to alter the Helena, Montana, control zone. The proposal is necessary to encompass the new LOC/DME–BC instrument approach at Helena, Montana.

DATES: Comments must be received on or before August 10, 1977.

ADDRESSES: Send comments on the proposal to: Chief, Air Traffic Division, Attn.: ARM–500, Federal Aviation Administration, 10455 East 25th Avenue, Aurora, Colorado 80010. A public docket will be available for examination by interested persons in the office of the Regional Counsel, Federal Aviation Administration, 10455 East 25th Avenue, Aurora, Colorado 80010.

FOR FURTHER INFORMATION CONTACT:

Joseph T. Taber, Airspace Specialist, Operations, Procedures and Airspace Branch (ARM–537), Air Traffic Division, Federal Aviation Administration, Rocky Mountain Region, 10455 East

25th Avenue, Aurora, Colorado 80010; telephone 303-837-3937.

SUPPLEMENTARY INFORMATION:

COMMENTS INVITED

Interested persons may participate in the proposed rule making by submitting such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Air Traffic Division, Federal Aviation Administration, 10455 East 25th Avenue, Aurora, Colorado 80010. All communications received will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

AVAILABILITY OF NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue SW., Washington, D.C. 20591, or by calling 202-426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

THE PROPOSAL

The Federal Aviation Administration is considering an amendment to Subpart F of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the control zone at Helena, Montana. The present control zone is inadequate to contain the new LOC/DME-BC instrument approach to the Helena Airport, Helena, Montana. It is proposed to make the control zone alteration effective coincident with the effective date of the new approach. Accordingly, the Federal Aviation Administration proposes to amend Subpart F of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

By amending § 71.171 so as to alter the following control zone to read:

HELENA, MONT.

Within a 5 mile radius of the Helena County-City Airport (latitude 46°36'27" N., longitude 111°58'45" W.), within 2½ miles each side of the Helena VORTAC 102° radial extending from the 5 mile radius zone to 4½ miles east of the VORTAC, and within 1 mile each side of the 282° bearing from the airport reference point, from the 5 mile radius zone 8 miles west of the VORTAC.

DRAFTING INFORMATION

The principal authors of this document are Joseph T. Taber, Air Traffic Division, and Daniel J. Peterson, Office of the Regional Counsel, Rocky Mountain Region.

This amendment is proposed under authority of Section 307(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)), and of Section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 and OMB Circular A-107.

Issued in Aurora, Colorado, on June 28, 1977.

M. M. MARTIN,
Director,
Rocky Mountain Region.

[FR Doc.77-19691 Filed 7-8-77;8:45 am]

FEDERAL TRADE COMMISSION

[16 CFR Part 13]

[File No. 741 0603]

DAMON CORP.

Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Provisional consent agreement.

SUMMARY: This consent order, among other things, bars a Needham Heights, Mass., operator of a chain of medical laboratories, from acquiring, for a period of ten years, any independent medical laboratory located in, or doing 25 percent or more of its business in given markets, without prior Commission approval. Further, the order requires the firm to cease furnishing any means of compensation to physicians and others for referring specimens for testing to Damon laboratories, rather than to those of its competitors.

DATE: Comments must be received on or before September 6, 1977.

ADDRESS: Comments should be directed to: Office of the Secretary, Federal Trade Commission, 6th & Pennsylvania Ave., NW., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT:

Owen M. Johnson, Jr., Director, Bureau of Competition, Federal Trade Commission, 6th & Pennsylvania Ave. NW., Washington, D.C. 20580. (202) 523-3601.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the FTC Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's rules of practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist and an explanation thereof, having been filed with and provisionally accepted by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(14) of the Commission's rules of practice (16 CFR 4.9(b)(14)).

[File No. 741 0603]

DAMON CORPORATION

AGREEMENT CONTAINING CONSENT ORDER TO CEASE AND DESIST

The Federal Trade Commission having initiated an investigation of certain acts and practices of Damon Corporation, a corporation, and it now appearing that Damon Corporation, hereinafter sometimes referred to as proposed respondent, is willing to enter into an agreement containing an order to cease and desist from the use of the acts and practices being investigated;

It is hereby agreed by and between Damon Corporation, by its duly authorized officer and its attorneys, and counsel for the Federal Trade Commission that:

1. Proposed respondent Damon Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its executive offices located at 115 Fourth Avenue, Needham Heights, Massachusetts 02194.

2. Proposed respondent admits all the jurisdictional facts set forth in the draft of complaint here attached.

3. Proposed respondent waives:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law; and

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement.

4. This agreement shall not become a part of the official record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission it, together with the draft of complaint contemplated thereby, will be placed on the public record for a period of sixty (60 days and information in respect thereto publicly released; and such acceptance may be withdrawn by the Commission if comments or views submitted to the Commission disclose facts or considerations which indicate that the order contained in this agreement is inappropriate, improper, or inadequate.

5. This agreement is for settlement purposes only and does not constitute an admission by proposed respondent that the law has been violated as alleged in the draft of complaint here attached or otherwise.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's rules, the Commission may, without further notice to proposed respondent, (1) issue its complaint corresponding in form and substance with the draft of complaint here attached and its decision

containing the following order to cease and desist in disposition of the proceeding, and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Mailing of the aforementioned complaint and decision containing the agreed-to order to proposed respondent at its address as stated in this agreement shall constitute service. Proposed respondent waives any right it may have to any other manner of service. The aforementioned complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or this agreement may be used to vary or contradict the terms of the order. The Commission has relied in a material way in entering into this agreement upon representations by proposed respondent as to the revenues and profits derived from its medical laboratories in certain locations, attached hereto as Exhibit A (*in camera*).

7. Proposed respondent has read the proposed complaint and order contemplated hereby, and understands that once the order has been issued, proposed respondent will be required to file one or more compliance reports showing that it has fully complied with the order, and that it may be liable for a civil penalty in the amount provided by then-existing law for each violation of the order occurring or in existence after the order becomes final.

ORDER

I.

For purposes of this order, the following definitions shall apply:

1. *Respondent.*—Damon Corporation, and those persons, partnerships, corporations, and other legal entities acting on its behalf, including but not limited to, its officers, directors, agents, representatives, employees, subsidiariers, affiliates, successors and assigns.

2. *Medical Laboratory Tests.*—Tests or examinations performed on specimens drawn or otherwise taken from the human body or on other organic material, for the purpose of assisting in the diagnosis of disease or assessment of medical condition or state of body condition; not including autopsies, X-ray and other radiographic examinations, and electrocardiographic and other electrographic examinations.

3. *Medical Laboratory Test Services.*—The services performed by businesses performing or arranging for the performance of Medical Laboratory Tests in connection with the performance of such Tests, which services may include but are not limited to: Provision of such equipment and supplies as are necessary to obtain specimens; pick-up of specimens; performing or arranging for the performance of Medical Laboratory Tests; communication of results of Medical Laboratory Tests to interested parties; and giving assistance to physicians in their interpretation of the meaning of the results of such Medical Laboratory Tests

4. *Independent Laboratory.*—Any entity performing or arranging for the performance of Medical Laboratory Tests, other than a entity: (1) Owned and operated by a hospital or hospitals; or (2) more than 90 percent of the Net Sales of Medical Laboratory Tests of which during its four most recent complete fiscal quarters were attributable to sales of Medical Laboratory Tests performed at said laboratory on specimens obtained from in-patients and out-patients of either: (i) A single hospital, or (ii) a group of hospitals that has jointly contracted to purchase Medical Laboratory Test Services from a single source or to have such Test Services performed by a single source.

5. *Net Sales.*—Gross sales minus returns, discounts and allowances.

II.

A. It is ordered, That for a period of ten (10) years from the date of service of this order, Respondent shall not acquire, directly or indirectly, without the prior approval of the Federal Trade Commission, the whole or any part of the stock, share capital, or any other indicia of ownership of, or any ownership interest in, any other Independent Laboratory: (1) Which performs any Medical Laboratory Tests at any location within a Market; or (2) which during its four most recent fiscal quarters has derived more than twenty-five percent (25%) of its Net Sales of Medical Laboratory Tests from Tests performed upon specimens originating from within any one Market.

B. For purposes of this Part II, any arrangement between Respondent and an Independent Laboratory pursuant to which such Independent Laboratory:

1. Transfers or otherwise makes available to Respondent, for a consideration, any list of customers for Medical Laboratory Tests in a Market; or

2. Discontinues the solicitation of customers for, or the marketing of, Medical Laboratory Tests within a Market, pursuant to an understanding with Respondent, and thereafter refers or sends customers for Medical Laboratory Tests in such Market to Respondent;

shall constitute an acquisition by Respondent of an ownership interest in such Independent Laboratory subject to the provisions of Paragraph A of this Part II.

C. For purposes of this Part II, the term "Market" shall mean each of the following geographic areas:

1. The Philadelphia, Pennsylvania area, being Bucks, Chester, Delaware, Montgomery and Philadelphia counties within the state of Pennsylvania; and Burlington, Camden and Gloucester counties within the state of New Jersey;

2. The Chicago, Illinois area, being Cook, DuPage, Kane, Lake, McHenry and Will counties within the state of Illinois;

3. The Birmingham, Alabama area, being Jefferson, St. Clair, Shelby and Walker counties within the state of Alabama;

4. The Tampa, Florida area, being Hillsborough, Pasco and Pinellas counties within the state of Florida;

5. The Bradenton, Florida area, being Manatee County within the state of Florida;

6. The Phoenix, Arizona area, being Maricopa County within the state of Arizona;

7. The Orlando, Florida area, being Orange, Osceola and Seminole counties within the state of Florida;

8. The Huntsville, Alabama area being Limestone, Madison and Marshall counties within the state of Alabama;

9. The Topeka, Kansas area, being Jefferson, Osage and Shawnee counties within the state of Kansas;

10. The Los Angeles, California area, being Los Angeles county within the state of California;

11. The Ventura, California area, being Ventura county within the state of California;

12. The Santa Barbara, California area, being Santa Barbara county within the state of Californria;

Provided, That if Respondent, in any of its fiscal years during the continuing existence of this Part II has less than five hundred thousand dollars ($500,000) in Net Sales of Medical Laboratory Tests performed on specimens originating from within any geographic area listed above, said area or areas shall not constitute a Market for each of Respondent's subsequent fiscal quarters during which Respondent's Net Sales of Medical Laboratory Tests performed on specimens originating from within said area or areas, including such sales by any Independent Laboratory acquired by Respondent, are below one hundred and twenty-five thousand dolars ($125,000).

D. No acquisition made by Respondent shall be deemed immune or exempt from the provisions of the antitrust laws by reason of anything contained in this order.

III.

A. *It is further ordered,* that Respondent shall not, directly or indirectly, make any payment of money, or grant or transfer any other thing of value, to or for the benefit of any Person: (a) To induce such Person either: (i) To contract with Respondent for Respondent to perform any Medical Laboratory Test Service; or (ii) to order or arrange for any Medical Laboratory Test Service to be performed by or through Respondent; or (b) to compensate such Person for so contracting, ordering, or arranging; whether or not said payment, grant or transfer is described or regarded as a rebate, credit, gift, commission, rental payment, participation in or share of profits, payment for any service in connection with the provision of any Medical Laboratory Test Service, or otherwise. This provision shall not, however, prohibit Respondent:

(1) From providing Medical Laboratory Test Services to any Person without charge, unless Respondent knows or should know that such Person will receive anything of value for such Services from any other Person or a hospital; or

(2) From granting such bona fide extensions of credit to Persons charged for Medical Laboratoray Test Services as are usual in the normal course of providing such Medical Laboratory Test Services; or

(3) From granting to Persons charged for Medical Laboratory Test Services any discount or reduced price for any Medical Laboratory Test Services (free Medical Laboratory Test Services, however, being controlled solely by subparagaraph (1) above and not by this subparagraph). *Provided*, That subsequent to the date six (6) months after the date of service of this order upon Respondent, (i) the resultant net price for each Medical Laboratory Test Service on which any discount or reduced price is granted is provided in writing to the Person charged for the Medical Laboratory Test Services before or at the time said Person is billed for such Services, and (ii) the method of calculation and the conditions of eligibility for such discount or reduced price are clearly stated in writing on all notices of charges therefor.

B. For the purposes of this Part III, the term "Person" shall mean any individual, corporation, partnership, trust, unincorporated association or organization, or government or agency or political subdivision thereof, other than a hospital or Respondent.

C. No act or practice carried out by Respondent shall be deemed immune or exempt from the laws of any State or of the United States by reason of anything contained in this order.

IV.

It is further ordered, That for a period of ten (10) years from the date of service of this Order, Respondent shall, within ten (10) days after signing an agreement in principle to acquire any Independent Laboratory, or after the acquisition of any Independent Laboratory, whichever event is first, submit the following information in writing to the Federal Trade Commission:

1. Name of such Independent Laboratory.

2. Location of each facility owned, operated, or managed by such Independent Laboratory at which Medical Laboratory Tests were performed within the twelve (12) month period preceding the date of notification and, with respect to each such facility:

a. Net Sales of Medical Laboratory Tests for each of the last twelve (12) complete fiscal quarters prior to the date of notification;

b. The principal geographic area(s) it served within the twelve (12) month period prior to the date of notification; and

c. Medical Laboratory Tests it was licensed to perform by any State or Federal agency within the twelve (12) month period prior to the date of notification.

3. Price paid or to be paid for such Independent Laboratory.

4. Location of the facility owned, operated, or managed by Respondent at which Medical Laboratory Tests were performed within the twelve (12) month period preceding the date of notification which was nearest to each facility of such Independent Laboratory identified pursuant to (2) above.

5. Net Sales of Medical Laboratory Tests attributable to each facility of Respondent identified pursuant to (4) above for each of the last twelve (12) complete fiscal quarters of Respondent prior to the date of notification.

6. Date of closing or contemplated date of closing.

V.

It is further ordered, That Respondent shall forthwith distribute a copy of this order to each of its operating divisions, its present corporate officers, its medical laboratory directors, and its sales personnel; and shall secure from each such officer, director, and employee, a signed statement acknowledging receipt of said order.

VI.

It is further ordered, That Respondent shall, within sixty (60) days after the date of service of this order, and thereafter on the first anniversary date of the date of service of this Order and on each anniversary date thereafter to and including the tenth anniversary date, submit in writing to the Commission a report setting forth in detail the manner and form in which Respondent intends to comply, is complying, and has complied with Parts II and III of this order. All compliance reports shall include such other information and documentation as may hereafter be required to show compliance with this order.

VII.

It is further ordered, That Respondent shall notify the Commission at least thirty (30) days prior to any proposed change in its corporate structure such as dissolution, assignment or sale resulting in the emergence of a successor corporation, or any other change in the corporation, which may affect obligations arising out of this order.

Analysis To Facilitate Public Comment on Proposed Consent Order

The Federal Trade Commission has provisionally accepted an agreement with the Damon Corporation containing a proposed consent order. The agreement culminates an investigation conducted pursuant to File No. 741 0603.

Count I of a complaint proposed by the Commission staff alleges that in the course of its nationwide acquisition program, Damon has violated section 7 of the Clayton Act and section 5 of the Federal Trade Commission Act by reason of its acquisition of twelve independent medical laboratories located in the Philadelphia and Chicago metropolitan areas. Part II of the proposed consent order would provide relief with respect to this alleged violation. It would:

(a) Prohibit Damon from making any further acquisition, without prior Commission approval, of any independent medical laboratory located in or doing a substantial portion of its business (25 percent or more) in the Philadelphia or the Chicago area; and

(b) Prohibit Damon from making any further acquisition, without prior Commission approval, of any independent medical laboratory in ten other areas:

Birmingham, Alabama; Huntsville, Alabama; Tampa, Florida; Bradenton, Florida; Orlando, Florida; Topeka, Kansas; Phoenix, Arizona; Los Angeles, California; Santa Barbara, California; and Ventura, California.

However, Part II would permit Damon to acquire an independent laboratory in any of the twelve areas listed in (a) and (b) if Damon's sales in that area fall below $500,000 per year.

Part IV of the order would supplement Part II; it would require Damon to supply information to the Commission on all proposed independent laboratory acquisitions.

Count II of the proposed complaint alleges that during a period extending at least from 1971 to mid-1975, Damon and certain of its subsidiary laboratories paid rebates to physicians and others to induce them to refer specimens to Damon's laboratories for testing rather than to its competitors. The proposed complaint alleges that Damon used various devices to accomplish this end. In some cases where Damon billed patients (or their insurers), it is alleged that the laboratory paid to the ordering physician, or to the medical clinic where the testing originated, or to the owners or managers of said clinics, a percentage of the amounts billed. In other cases, Damon allegedly made payments calculated on the basis of a set amount per test, or per specimen, or per patient, to physicians or to their employees. In still other cases, it is alleged that Damon made payments to intermediaries, who paid rebates to physicians or to their employees in turn. It is alleged that while Damon sometimes attempted to conceal the nature of these payments by calling them "fees" of one type or another, they were all intended to induce physicians and others, by enriching them, to send business to Damon laboratories.

The proposed complaint further alleges that Damon used similar techniques in areas where it billed the physician and the physician included the laboratory charge on his bill to the patient. In some areas where Damon used this billing procedure, it is alleged that the laboratory would bill the physician for work, but would later write off some or all of these charges, or would grant "volume discounts" designed and intended to enrich the physician rather than to benefit the patient. The proposed complaint alleges that all of the above devices violate Section 5.

All of these practices would be prohibited by Part III of the proposed consent order. It would bar Damon from making any payment, directly or indirectly, to a physician or other person to induce any person to refer specimens to Damon for testing. The prohibition would apply whether the payment is made in money or any other form, and regardless of how

the payment is described or designated by the parties involved.

Three clarifications of this general prohibition are stated. First, Damon could provide free testing and other ancillary services which are usually provided without charge for the benefit of patients unless Damon "knows or should know" that the physician will receive something of value for these services. Second, Damon could provide credit which is bona fide and usual in the laboratory business. Finally, Damon could grant any lawful discount or reduced price for a test so long as Damon informed the customer of the terms of any applicable discounts on all notices of charges for that test and provided the customer with the resulting net price at or before the time the customer was billed for the test.

Part III of the proposed order would not prohibit Damon from granting discounts or rebates or otherwise making payments to hospitals. This exemption is limited, however, to hospitals as institutions; the order would prohibit any payment to any individual, including individuals associated with a hospital, such as a staff physician who might order laboratory tests or a hospital administrator.

The remainder of the proposed order would deal with provisions for compliance. Part V would require Damon to distribute the order to appropriate personnel; Part VI would specify the filing of regular compliance reports to the Commission; and Part VII would require Damon to notify the Commission in the event of any significant changes in corporate structure which could affect its obligations under the order.

This analysis is intended to encourage public comment; it does not constitute an official interpretation of the proposed order or a modification of its terms.

CAROL M. THOMAS,
Secretary.

[FR Doc.77-19611 Filed 7-8-77;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[17 CFR Parts 230, 240]

[Release Nos. 33-5840, 34-13710]

RAILROAD INDUSTRY DISCLOSURE GUIDELINES, DEFERRED MAINTENANCE, AND BETTERMENT ACCOUNTING

Extension of Comment Period

AGENCY: Securities for Exchange Commission.

ACTION: Extension of time and comment.

SUMMARY: Because interested persons have requested additional time to formulate material in response to the Commission's invitation to comment on proposed railroad industry disclosure guidelines, deferred maintenance and betterment accounting, the Commission has extended the comment deadline date which currently would expire on June 17, 1977.

DATES: Comments must be received on or before: September 16, 1977.

ADDRESS: Comments should refer to file No. S7-692 and should be submitted in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549.

FOR FURTHER INFORMATION CONTACT: (A) With respect to disclosure guidelines:

Richard K. Wulff, Division of Corporation Finance, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549 (202/755-1750).

(B) With respect to deferred maintenance and betterment accounting:

Lawrence J. Bloch, Office of the Chief Accountant, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549 (202/755-1182).

SUPPLEMENTARY INFORMATION: On April 28, 1977, the Commission published Securities Act Release No. 5824, Securities Exchange Act Release No. 5824, Securities Exchange Act Release No. 13479 (42 FR 24069 (May 12, 1977)) announcing that it was considering the formulation of rules and guides and requesting public comment with respect to (1) the form and content of railroad industry disclosure guidelines; (2) a uniform definition of deferred maintenance and uniform standards for its quantification and disclosure; and (3) the appropriateness of betterment accounting in documents filed with the Commission and distributed to stockholders. Interested persons were invited to submit written views and comments on or before June 17, 1977.

The Commission has received written requests and several oral requests to extend the comment period on these matters. In order to receive the benefit of the comments which affected issuers and others may have on these matters, the Commission has determined to extend the comment period until September 16, 1977.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

JULY 1, 1977.

[FR Doc.77-19638 Filed 7-8-77;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 52]

[FRL 759-5]

APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Proposed Revision to the New York State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: This proposal announces receipt of a request from New York State to revise its State Implementation Plan (SIP). The State is seeking approval from the Environmental Protection Agency (EPA) of "special limitations" granted by the State pursuant to Part 225.2 of Title 6 of its Official Compilation of Codes, Rules and Regulations (6 NYCRR 225.2). The proposed revision will relax the sulfur-in-fuel-oil limitation for air pollution sources which do not have a total heat input in excess of 250 million Btu per hour in parts of the Southern Tier East, Central New York and Champlain Valley (Northern) Air Quality Control Regions (AQCR's). These "special limitations" will allow the use by these sources of fuel oil with a maximum sulfur content of 2.8 percent, by weight, until December 31, 1979. Currently, these sources are limited by State regulation to the use of fuel oil with a maximum sulfur content of 2.0 percent, by weight.

DATES: Comments must be received on or before August 10, 1977.

ADDRESSES: All comments should be addressed to: Gerald M. Hansler, P.E., Regional Administrator, U.S. Environmental Protection Agency, Region II Office, 26 Federal Plaza, New York, New York 10007.

Copies of the proposal are available for public inspection during normal business hours at: U.S. Environmental Protection Agency, Air Programs Branch, Room 908, Region II Office, 26 Federal Plaza, New York, New York 10007. U.S. Environmental Protection Agency, Public Information Reference Unit, 401 M Street, S.W., Washington, D.C. 20460. New York State Department of Environmental Conservation, Division of Air Resources, 50 Wolf Road, Albany, New York 12233.

FOR FURTHER INFORMATION CONTACT:

William S. Baker, Chief, Air Programs Branch, U.S. Environmental Protection Agency, Region II Office, 26 Federal Plaza, New York, New York 10007. 212-264-2517).

SUPPLEMENTAL INFORMATION:

BACKGROUND

On March 16, 1976, New York State requested that EPA approve a proposed revision to its SIP concerning, in part, "special limitations" to allow the use of fuel oil with a sulfur content of 2.8 percent until May 31, 1977 for certain sources in the Southern Tier East, Central and Champlain Valley AQCR's.

On May 25, 1976 (41 FR 21360) EPA announced receipt of the proposal and indicated that the State's control strategy demonstration in support of the plan revision, as it applied to the three AQCR's, was inadequate. The State submitted additional technical information on June 22, 1976. However, adequate technical support was still lacking.

The SIP revision, except for the three AQCR's, was approved on July 20, 1976 (41 FR 29817) with a correction notice published on August 13, 1976 (41 FR 34259). In the July 20, 1976 notice, EPA

extended the public comment period for the proposed revision as it applied to the three AQCR's and, on July 30, 1976, the State requested that the proposed revision be withdrawn. This withdrawal was announced on September 3, 1976 (41 FR 37344).

On March 3, 1977, the State requested that EPA reconsider the original proposed plan revision for the three AQCR's. However, in its March 3, 1977 request, the State excluded from consideration for plan revision the counties of Broome and Onondaga. These counties were contained in the original request. On April 5, 1977, the State requested that the original expiration date of the SIP revision be extended to December 31, 1979. On June 16, 1977, the State submitted three orders effectuating these provisions for the AQCR's.

The current revision request was submitted in accordance with all applicable EPA requirements pursuant to 40 CFR Part 51 including a public hearing which was held on June 26 and 27, 1975.

SYNOPSIS

In its current request, New York State proposes to relax to a maximum of 2.8 percent, by weight, the sulfur-in-fuel-oil limitations applicable to sources which do not have a total heat input in excess of 250 million Btu per hour and which are located in the following areas:

1. The Southern Tier East AQCR, with the exception of Broome County.
2. The Central New York, AQCR, with the exception of Onondaga County.
3. The Champlain Valley (Northern) AQCR, with the exception of all sources in the City of Glens Falls and sources with a total heat input greater than 100 million btu per hour in the Town of Queensbury.

The State control strategy demonstration shows that these "special limitations" for the applicable parts of the three AQCR's are not expected to cause or exacerbate violations of the air quality standards for sulfur dioxide. The State demonstration utilizes diffusion modeling techniques meeting EPA policy requirements for relaxation of sulfur-in-fuel-oil limitations. In its March 3, 1977 request, the State informed EPA that it intends to perform additional diffusion modeling for Broome and Onondaga Counties, which are excluded from this current action. After this modeling is completed, the State intends to request a plan revision for these two counties.

This notice is issued as required by section 110 of the Clean Air Act, as amended, to advise the public that comments may be submitted as to whether the proposed revision to the New York State Implementation Plan should be approved or disapproved. The Administrator's decision regarding approval or disapproval of this proposed plan revision will be based on whether it meets the requirements of section 110(a)(2)(A)–(H) of the Clean Air Act and EPA regulations in 40 CFR Part 51.

Dated: June 29, 1977.

ERIC B. OUTWATER,
Acting Regional Administrator,
Environmental Protection Agency.

[FR Doc.77-19534 Filed 7-8-77;8:45 am]

[40 CFR Part 52]

[FRL 759-6]

APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Revisions to the Del Norte County Air Pollution Control District's Rules and Regulations in the State of California

AGENCY: U.S. Environmental Protection Agency.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Del Norte County Air Pollution Control District (APCD) has adopted changes to rules concerning the monitoring of stationary sources of air pollution. The intended effect of these rules is to ascertain the extent of compliance with other APCD rules. The revisions have been submitted to the Environmental Protection Agency (EPA) by the California Air Resources Board as revisions to the California State Implementation Plan (SIP). The EPA invites public comments on these rules, especially as to their consistency with the Clean Air Act.

DATES: Comments may be submitted on or before August 10, 1977.

ADDRESS: Send comments to: Regional Administrator, Attn: Air & Hazardous Materials Division, Air Programs Branch, California SIP Section, EPA, Region IX, 100 California Street, San Francisco CA 94111.

FOR FURTHER INFORMATION CONTACT:

Frank M. Covington, Director, Air & Hazardous Materials Division, Environmental Protection Agency, 100 California Street, San Francisco CA 94111, Attn: David R. Souten, (415—556-7288.

SUPPLEMENTARY INFORMATION: The November 10, 1976 submittal included the following revised rules:

Rule 240(d)—Compliance Verification. Rule 240(e)—Mandatory Monitoring Requirements.

Under section 110 of the Clean Air Act as amended, and 40 CFR Part 51, the Administrator is required to approve or disapprove the regulations as an SIP revision.

The Regional Administrator hereby issues this notice setting forth these revisions as proposed rulemaking and advises the public that interested persons may participate by submitting written comments to the Region IX Office. Relevant comments received on or before August 10, 1977 will bec onsidered. Comments received will be available for public inspection at the Region IX Office and the EPA Public Information Reference Unit.

Copies of the proposed revision are available for public inspection during normal business hours at the following locations:

Del Norte County Air Pollution Control District, Courthouse, Crescent City CA 95531.
California Air Resources Board, 1709—11th Street, Sacramento CA 95814.
Environmental Protection Agency, Region IX, 100 California Street, San Francisco CA 94111.
Public Information Reference Unit, Room 2922 (EPA Library), 401 "M" Street SW., Washington, D.C. 20460.

AUTHORITY: Secs. 110 and 301 of the Clean Air Act, as amended (42 U.S.C. 1857c-5).

Dated: June 24, 1977.

PAUL DE FALCO, Jr.,
Regional Administrator.

[FR Doc.77-19535 Filed 7-8-77;8:45 am]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[46 CFR Parts 30, 32]

[CGD 77-057]

INERT GAS SYSTEMS

Comment Closing Deadline; Correction

AGENCY: Coast Guard, DOT.

ACTION: Correction.

SUMMARY: This document corrects a proposed rule appearing at page 24874 of the FEDERAL REGISTER of May 16, 1977 (FR Doc. 77-13895) by providing a deadline date for the submission of comments.

DATE: Comments must be received on or before September 1, 1977.

ADDRESSES: Comments should be submitted to the Commandant (G-CMC/81), U.S. Coast Guard, Washington, D.C. 20590. Comments will be available for examination at the Marine Safety Council (G-CMC/81), Room 8117, Department of Transportation, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590. A copy of the economic evaluation from which the economic summary in this document is taken is available for examination at the above address.

FOR FURTHER INFORMATION CONTACT:

Captain George K. Greiner, Marine Safety Council (G-CMC/81), Room 8117, Department of Transportation, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590 (202-426-1477).

Dated: June 27, 1977.

E. L. PERRY,
Vice Admiral, U.S. Coast Guard,
Acting Commandant.

[FR Doc.77-19382 Filed 7-8-77;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 2]

[Docket No. 21116]

PROHIBITING THE MARKETING OF EXTERNAL AMPLIFIERS ON SOME FREQUENCIES

Extension of Comment Period

AGENCY: Federal Communications Commission.

ACTION: Extension of Time to file Reply Comments.

SUMMARY: An extension of time to file reply comments has been requested in Docket No. 21116. Because of the importance of this proceeding to both the manufacturers and consumers, the Commission is granting the request. No objections have been received. (See 42 FR 27628, May 31, 1977 and 42 FR 12203, March 3, 1977).

DATES: Reply comments must be received on or before July 13, 1977.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Frank Rose, Research and Standards Division, Office of Chief Engineer, Federal Communications Commission, Washington, D.C. 20554 202-632-7093.

SUPPLEMENTAL INFORMATION:

Adopted: June 30, 1977.
Released July 5, 1977.

In the matter of amendment of Part 2 of the Commission's Rules to prohibit the marketing of external radio frequency amplifiers capable of operation on any frequency from 24 to 35 MHz; Docket No. 21116; order extending time to file reply comments.

1. The R. L. Drake Company, has requested the Commission to extend the time for filing reply comments in the above-captioned proceeding from July 6, 1977, to July 13, 1977.

2. Because of the technical nature of this proceeding, the importance of this proceeding to both the manufacturers and licensees, and the Commission's desire to have the most definitive responses possible, a 7 day extension of time from July 6, 1977 to July 13, 1977, for filing Reply Comments is hereby ordered pursuant to the authority granted by § 0.241 (d) of the Commission's rules.

RAYMOND E. SPENCE,
Chief Engineer.

[FR Doc.77-19649 Filed 7-8-77;8:45 am]

[47 CFR Parts 2, 97]

[Docket No. 21117]

AMATEUR RADIO SERVICE

Type Acceptance Requirements; Extension of Comment Period

AGENCY: Federal Communications Commission.

ACTION: Extension of Time to file Reply Comments.

Summary: An extension of time to file reply comments has been requested in Docket No. 21117.[1] Because of this proceeding to both the manufacturers and consumers, the Commission is granting the request. No objections have been received.

DATES: Reply comments must be received on or before July 13, 1977.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Frank Rose, Research and Standard Division, Office of Chief Engineer, Federal Communications Commission, Washington, D.C. 20554 (202-632-7093).

SUPPLEMENTARY INFORMATION:

Adopted: June 30, 1977.
Released: July 1, 1977.

In the matter of amendment of Parts 2 and 97 of the Commission's Rules to require type acceptance of equipment marketed for use in the Amateur Radio Service; Docket No. 21117; Order extending time to file reply comments.

1. The R. L. Drake Company, has requested the Commission to extend the time for filing reply comments in the above-captioned proceeding from July 6, 1977, to July 13, 1977.

2. Because of the technical nature of this proceeding, the importance of this proceeding to both the manufacturers and licensees, and the Commission's desire to have the most definitive responses possible, a 7 day extension of time from July 6, 1977, to July 13, 1977, for filing Reply Comments is hereby ordered pursuant to the authority granted by § 0.241 (d) of the Commission's rules.

RAYMOND E. SPENCE,
Chief Engineer.

[FR Doc.77-19650 Filed 7-8-77;8:45 am]

[47 CFR Parts 89, 91, 93]

[Docket No. 21229]

LAND MOBILE SERVICES

Practices and Procedures for Spectrum Management; Inquiry

AGENCY: Federal Communications Commission.

ACTION: Notice of inquiry, request for comments.[1]

Summary: The Commission is seeking public rsponse to its plan for developing a new program of spectrum management for the land mobile radio services. These services include most private uses of two way radio and radio paging by police, fire, business, and other industrial users. The Commission invites comments on a new application form that will be used to build a computerized data base. The Commission also announces its intention to develop new rules and standards for the selection of frequencies for land mobile systems. Also included is a report on spectrum monitoring that the Commission has been conducting in Chicago on a trial basis. Public response to any of the material presented will be considered in the development of the new program.

DATES: At the request of the Association of Maximum Service Telecasters, Inc., the time for filing comments in this proceeding has been extended to October 13, 1977, and reply comments to November 14, 1977.

ADDRESS: Send comments to: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Morgan O'Brien, Safety and Special Radio Services Bureau, Federal Communications Commission, Washington, D.C. 20554 (202-254-3301).

SUPPLEMENTARY INFORMATION:

Adopted: June 27, 1977.

Released: June 30, 1977.

In the matter of inquiry into the practices and procedures for spectrum management in the land mobile services governed by Parts 89, 91, 93 of the Commission's rules; Docket No. 21229; Order extending time to file comments, See 42 FR 26030, May 20, 1977.

1. The Association of Maximum Service Telecasters, Inc. ("MST") has requested an extension of time until October 13, 1977, within which to file comments in the spectrum management proceeding. The filing deadline presently is July 15 for comments and August 15 for reply comments.

2. MST wishes to participate in the inquiry, but its resources currently are fully employed in other Commission proceedings.

3. It is our intention to solicit the widest possible comment on the complex issues associated with spectrum management for the land mobile services. We therefore find that the public interest will be served by the ninety (90) day extension herein requested.

4. *Accordingly, it is ordered,* Pursuant to §§ 0.331, and 1.46 of the Commission's rules that the time for filing comments in this proceeding is extended from July 15, 1977 to October 13, 1977, and reply comments from August 15, 1977 to November 14, 1977, respectively.

CHARLES A. HIGGINBOTHAM,
Chief, Safety and Special Radio Services Bureau.

[FR Doc.77-19657 Filed 7-8-77;8:15 a.m.]

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[1] See 42 FR 27628, May 31, 1977 and 42 FR 12204, March 3, 1977.

[1] See 42 FR 26029, May 20, 1977.

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[49 CFR Parts 575 and 581]

BUMPER STANDARD

Damageability Requirements and Consumer Information; Correction

AGENCY: National Highway Traffic Safety Administration.

ACTION: Correction of proposed rule and notice of hearing.

SUMMARY: On June 16, 1977, the NHTSA proposed three alternative amendments to the Bumper Standard and announced a public hearing on the issues raised in that proposal. That notice incorrectly listed the location of the public hearing. This notice amends the June 16 notice to correct the location of the public hearing.

DATE: The hearing begins at 9:30 a.m. on July 28, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Bob Mewhinney, Office of Crashworthiness, Motor Vehicle Programs, NHTSA, 400 Seventh Street SW., Washington, D.C. 20590 (202–426–8896).

SUPPLEMENTARY INFORMATION: In the FEDERAL REGISTER on June 16, 1977 (42 FR 30655), the location of a public hearing on the Bumper Standard amendments was listed as the Departmental Auditorium at 14th Street and Constitution Avenue NW., Washington, D.C. The location of the hearing is changed to the United States Department of Commerce Auditorium at 14th Street and Constitution Avenue NW., Washington, D.C. The June 16 proposal remains the same in all other respects.

The principal author of this notice is Roger Tilton of the Office of Chief Counsel.

(Secs. 103, 112, 119, Pub. L. 89–563, 80 Stat. 718 (15 U.S.C. 1392, 1401, 1407); Sec. 201, Pub. L. 92–513, 86 Stat. 947 (15 U.S.C. 1941); delegation of authority at 49 CFR 1.50 and 501.8.)

Issued on July 6, 1977.

JAMES E. HOFFERBERTH,
Acting Associate Administrator, Motor Vehicle Programs.

[FR Doc.77–19843 Filed 7–7–77; 10:33 am]

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

MARKAGUNT PLANNING UNIT

Availability of Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a final environmental statement for the Markagunt Planning Unit, Dixie National Forest, Utah. The Forest Service report number is USDA-FS-FES (Adm) R4-77-1.

The environmental statement identifies and evaluates the probable effects of the land management plan for the Markagunt Plateau Planning Unit on the Dixie National Forest in southwestern Utah. The purpose of the plan is to allocate National Forest lands within the unit to specific resources uses and activities; establish management objectives; document management direction, management decisions, and necessary coordination between resource uses and activities; and provide for the protection, use, and development of the various resources within the planning unit.

This final environmental statement was transmitted to CEQ on July 1, 1977.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service, South Agriculture Bldg., Room 3230, 12th St. and Independence Ave., SW., Washington, D.C. 20250.
Regional Planning & Budget Office, USDA, Forest Service, Federal Building, Room 4120, 324-25th Street, Ogden, Utah 84401.
Forest Supervisor, 82 North 100 East, P.O. Box 580, Cedar City, Utah 84720.
District Forest Ranger, Cedar City Ranger District, 82 North 100 East, P.O. Box 580, Cedar City, Utah 84720.

A limited number of single copies are available upon request to Forest Supervisor Merlin I. Bishop, Dixie National Forest, 82 North 100 East, P.O. Box 580, Cedar City, Utah 84720.

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the CEQ Guidelines.

EINAR L. ROGET,
Acting Deputy Chief, P&L.

JULY 1, 1977.

[FR Doc.77-19826 Filed 7-8-77;8:45 am]

Office of the Secretary

MEAT IMPORT LIMITATIONS

Third Quarterly Estimates

Public Law 88-482, approved August 22, 1964 (hereinafter referred to as the Act), provides for limiting the quantity of fresh, chilled, or frozen cattle meat (TSUS 106.10) and fresh, chilled, or frozen meat of goats and sheep, except lamb (TSUS 106.20), which may be imported into the United States in any calendar year. Such limitations are to be imposed when it is estimated by the Secretary of Agriculture that imports of such articles, in the absence of limitations during such calendar year, would equal or exceed 110 percent of the estimated quantity of such articles, prescribed by Section 2(a) of the Act.

In accordance with the requirements of the Act, the following third quarterly estimates for 1977 are published.

1. The estimated quantity of such articles prescribed by Section 2(a) of the Act during the calendar year 1977 is 1,165.4 million pounds.

2. The estimated aggregate quantity of such articles which would, in the absence of limitations under the Act, be imported during calendar year 1977 is less than 110 percent of the estimated quantity prescribed by Section 2(a) of the Act.

Since the estimated quantity of imports does not equal or exceed 110 percent of the estimated quantity prescribed by Section 2(a) of the Act, limitations ror the calendar year 1977 on the importation of fresh, chilled, or frozen cattle meat (TSUS 106.10) and fresh chilled or frozen meat of goats and sheep (TSUS 106.20), are not authorized to be imposed pursuant to Public Law 88-482 at this time.

This estimate is based upon information provided by the Department of State that agreements have been concluded with major supplying countries to limit meat imports into the United States in 1977. Were it not for these voluntary arrangements with supplying countries, the estimate of imports would have exceeded 110 percent of the estimated quantity prescribed by Section 2(a) of the Act.

Done at Washington, D.C., this 6th day of July 1977.

BOB BERGLAND,
Secretary.

[FR Doc.77-19617 Filed 7-8-77;8:45 am]

DEPARTMENT OF COMMERCE

Bureau of the Census

ANNUAL SURVEY OF MANUFACTURES, SUPPLEMENT

Notice of Determination

In conformity with title 13, United States Code, sections 182, 224, and 225, and due notice having been published on April 20, 1977 (42 F.R. 20483), I have determined that the data received from this supplement will provide the information necessary to develop estimates of alternative energy capabilities in manufacturing. The information will be used for energy analysis and policy guidance. The impact of fuel shortages upon the level of employment and output can be determined and policy to ameliorate adverse situations can be implemented with the assistance of such information. Therefore, these data will have significant application to the needs of the public and industry. They are not available from nongovernmental or other governmental sources.

This survey is a supplement to the annual survey of manufactures and will request a measure of substitutable and nonsubstitutable energy capabilities by type of energy. The potential type and magnitude of the substitutable capability as well as the time required to implement substitutions will also be measured.

Data will be collected from a subsample of the annual survey of manufactures establishments. The sample will consist of 5,000 establishments and account for about 70 percent of the purchased energy consumed by manufacturers.

Copies of the report forms are available upon request to the Director, Bureau of the Census, Washington, D.C. 20233.

I have, therefore, directed this supplement be conducted for the purpose of collecting the data hereinabove described.

Dated: July 6, 1977.

MANUEL D. PLOTKIN,
Director,
Bureau of the Census.

[FR Doc.77-19630 Filed 7-8-77;8:45 am]

Domestic and International Business Administration

Office of Import Programs

EMORY UNIV. SCHOOL OF MEDICINE

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket Number: 77-00153. Applicant: Emory University School of Medicine, Dept. of Pathology and Laboratory Medicine, 80 Butler Street S.E., Atlanta, Georgia 30303. Article: Electron Microscope, Model EM 9S-2, TI-Coolwell recirculating cooling system and accessories. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article will be used for basic and clinical research in the fields of nephrophathology, GI pathology, infectious diseases, neuropathology and in general, surgical pathology. More specifically, projects that will be conducted will involve:

a. G.I. studies—Absorption studies, X-ray studies and when clinically indicated, liver biopsies will be done and correlated with per oral small intestinal biopsies which will be examined by both light and especially with electron microscopy. Attempts will be made to evaluate and confirm the presence of ultrastructural changes in the small intestinal mucosa, their significance in regard to functional abnormalities, whether they are also present in patients with no functional abnormalities, and whether there is a correlation between morphologic and functional findings in small intestine and liver.

b. Genital Infections and Neoplasia—Studies directed at searching for viruses especially herpes simplex which are implicated in the pathogenesis of cervical cancer.

c. Renal Ischemic Injury—Studies on experimental ischemic renal injury in rats to determine detriments and benefits of renal encapsulation.

In addition, the article will be used to teach sophomore medical students and pathology residents in the use of EM and interpretation of electron micrographs and to take large numbers of photographs for montages, exhibits, and presentation by students and residents.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, was being manufactured in the United States at the time the foreign article was ordered (December 27, 1976). Reasons: The foreign article is a relatively simple, easy to operate, medium resolution electron microscope designed for confident use by beginning students with a minimum of detailed programming. The article provides 7 Angstroms point to point resolution, an accelerating voltage of 60 kilovolts (KV), and low distortion magnifications from 140-60,000X (Magnifications of 140 to 1000X are within the normal, light microscopic range). Thus the article covers the range of light and electron microscopy. The Department of Health, Education, and Welfare (HEW) advises in its memorandum dated June 8, 1977 that the low distortion, low magnification capabilities available specifically in the optical range at 140X are pertinent to the purposes for which the foreign article is intended to be used. HEW also advises that it knows of no domestic instrument or apparatus which provided the pertinent features of the article at the time the article was ordered.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which was being manufactured in the United States at the time the article was ordered.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director,
Special Import Programs Division.

[FR Doc.77-19659 Filed 7-8-77;8:45 am]

HENRY FORD HOSPITAL

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket Number: 77-00163. Applicant: Henry Ford Hospital, 2799 West Grand Blvd., Detroit, MI 48202. Article: Electron Microscope, Model EM 201C and accessories. Manufacturer: Philips Electronics Instruments NVD, The Netherlands. Intended use of article: The article is intended to be used for studies of a wide variety of biological materials including organs, tissues, cells, cellular products and individual molecules. The overall fine structural details of cells composing various normal organ systems and tissues as well as the alterations accompanying disease states will be studied. The objectives of the investigations will be as follows: (1) Assessment of various potential risk factors for thrombosis in different forms of arthritic and hematologic disorders, (2) exploration of the distribution and type of receptor sites associated with several different cell types that are important in the arthridites, (3) to determine whether or not certain biological crystals are formed inside or outside of cells and (4) to evaluate similar and/or unique ultrastructural details present in normal or abnormal samples of synovial membrane.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, was being manufactured in the United States at the time the article was ordered (February 21, 1977). Reasons: The foreign article is equipped with a high tilt (±60 degrees) eucentric goniometer stage. The Department of Health, Education, and Welfare (HEW) advises in its memorandum dated June 8, 1977 that the eucentric goniometer stage of the article is pertinent to the applicant's intended uses. HEW further advises that it knows of no domestic instrument which provided a scientifically equivalent eucentric goniometer stage at the time of order.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which was being manufactured in the United States at the time the article was ordered.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director,
Special Import Programs Division.

[FR Doc.77-19661 Filed 7-8-77;8:45 am]

ST. FRANCIS HOSPITAL, ET AL.

Consolidated Decision on Applications for Duty-Free Entry of Electron Microscopes

The following is a consolidated decision on applications for duty-free entry of electron microscopes pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301). (See especially Section 301.11(e).)

A copy of the record pertaining to each of the applications in this consolidated decision is available for public review during ordinary business hours of the Department of Commerce, at the Special Import Programs Division, Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket Number: 77-00164. Applicant: St. Francis Hospital, 929 North St. Francis Avenue, Wichita, Kansas 67214. Article: Electron Microscope, Model EM 10A and accessories. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article is intended to be used in the areas of renal biopsies, liver biopsies and tumor pathology. A definitive diagnosis of kidney diseases based on the findings of electron microscopic studies will help determine the modality of treatment for the patients. The projected experiment to be conducted will be in the field of virology, particularly the clinical study of viral hepatitis.

Application received by Commissioner of Customs: March 18, 1977. Advice submitted by the Department of Health, Education, and Welfare on: June 8, 1977. Article ordered: December 30, 1976.

Docket Number: 77-00171. Applicant: Robert B. Brigham Hospital, 125 Park Hill Avenue, Boston, Massachusetts 02120. Article: Electron Microscope, Model JEM-100C with side entry goniometer and accessories. Manufacturer: JEOL Ltd., Japan. Intended use of

article: The article is intended to be used in a wide variety of research projectors which will include the following:

(1) High resolution transmission microscopy of plasma membranes of various cells to determine the relationships between a phagocytic cell and a target, e.g. macrophage attacking a tumor cell, and eosinophil attacking a schistosomula.

(2) Studies of the fusion of liposomes with macrophages.

(3) Examination of membranes of white blood cells by negative staining to discern any membrane order such as occurs in viral and some bacterial membranes.

(4) Scanning microscopy of cell surfaces to determine whether peptides or proteins which alter the movement and behavior of cells act by entering the cell or on its surface.

Application received by Commissioner of Customs: March 16, 1977. Advice submitted by the Department of Health, Education, and Welfare on: June 8, 1977. Article ordered: June 11, 1977.

Comments: No comments have been received in regard to any of the foregoing applications. Decision: Applications approved. No instrument or apparatus of equivalent scientific value to the foreign articles, for the purposes for which the articles are intended to be used, was being manufactured in the United State at the time the articles were ordered. Reasons: Each foreign article has a specified resolving capability equal to or better than 3.5 Angstroms. The Department of Health, Education, and Welfare advises in the respectively cited memoranda, that the additional resolving capability of the foreign articles to which the foregoing applications relate is intended to be used. HEW advises that it knows of no domestic instrument which could provide the pertinent feature at the time the articles were ordered.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to any of the foreign articles to which the foregoing applications relate, for such purposes as these articles are intended to be used, which was being manufactured in the United States at the time the articles were ordered.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director,
Special Import Programs Division.

[FR Doc.77-19662 Filed 7-8-77;8:45 am]

TEXAS INST. FOR REHABILITATION

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket Number: 77-00108. Applicant: Texas Institute for Rehabilitation and Research, 1333 Moursund Avenue, Houston, Texas 77030. Article: ANOPS Computer, Model 10 and accessories. Manufacturer: Politechnika Warszawska ul. Poland. Intended use of article: The article is intended to be used to study the characteristics of motor unit responses in various neuromuscular disorders such as muscular dystrophy and in the relative merits of various techniques to classify these signals.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, was being manufactured in the United States at the time Customs received this application (January 24, 1977).

Reasons: The article is intended to be used in collaborative studies involving identical techniques, instruments, etc. which were developed through long and careful study by one of the applicant's colleagues. The article provides a specific program and software that will be used to avoid equivocation that would result from different means of recording and analyzing data produced during the experiment. Identical capability developed elsewhere would involve a sizable developmental effort. The Department of Health, Education, and Welfare (HEW) advises in its memorandum dated May 23, 1977 that the capabilities of the article described above are pertinent to the applicant's intended use. HEW also advises that it knows of no domestic instrument or apparatus that provides the pertinent features.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which was being manufactured in the United States at the time Customs received this application.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director,
Special Import Programs Division.

[FR Doc.77-19663 Filed 7-8-77;8:45 am]

UNIVERSITY OF MICHIGAN

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket Number: 77-00155. Applicant: The University of Michigan, Department of Microbiology, 6643 Medical Science Bldg., II, Ann Arbor, Michigan 48109. Article: Electron Microscope, Model EM 10A and accessories. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article is intended to be used for studies of (1) DNA structure of bacterial and mammalian viruses, (2) plasmid DNA structure, (3) bacterial cell morphology, (4) virus particle morphology, and (5) nucleic acid-protein complexes. Representative research projects will include:

1. Investigation of the structure and function of Simian Virus 40 DNA and evolutionary variants of it and the mechanisms by which cell transformation is induced by this virus.

2. Fine structure studies of the temperate phage, RO, which grows on the photosynthetic bacterium *R. spheroides* and the temperate phage which grows in *E. coli*.

3. Biological consequences of specific modifications in DNA molecules of the tumor virus, simian virus 40 and bacterial plasmid DNA.

4. Investigation of transformation in N. gonorrhea which concerns studies of the physiology and genetics of gram-negative cocci including Acinetobacter, Moraxella, Achromobacter, and Neisseria. In addition, the article will be used by graduate students and occasional undergraduate students in connection with the courses Biological Chemistry 600, 990, and 995, Human Genetics 990 and 995, and Microbiology 399, 599, 990 and 995. All of these courses are either special techniques courses or directed research for academic credit courses.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, was being manufactured in the United States at the time the U.S. Customs Service received this application (March 14, 1977).

Reasons: The foreign article has a specified resolving capability of 3.5 Angstroms. The Department of Health, Education, and Welfare (HEW) advises in its memorandum dated June 8, 1977 that the resolving capability of the foreign article is pertinent to the purposes for which the foreign article is intended to be used. HEW also advises that it knows of no domestic instrument which provides the pertinent feature of the article.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which was being manufactured in the United States at

the time the U.S. Customs Service received this application.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director,
Special Import Programs Division.

[FR Doc.77-19658 Filed 7-8-77;8:45 am]

UNIVERSITY OF OREGON, ET AL.

Consolidated Decision on Applications for Duty-Free Entry of Ultramicrotomes

The following is a consolidated decision on applications for duty-free entry of ultramicrotomes pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301). (See especially Section 301.11(e).)

A copy of the record pertaining to each of the applications in this consolidated decision is available for public review during ordinary business hours of the Department of Commerce, at the Special Import Programs Division, Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket Number: 77-00166. Applicant: University of Oregon Health Sciences Center, Department of Ophthalmology, Research Bldg., Room 324, 3181 SW. Sam Jackson Park Road, Portland, Oregon 97201. Article: Ultramicrotome, Model LKB 8800A and accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used for sectioning eye tissues which have been embedded in hardened epoxy resins. Investigations will include ultrastructural studies on normal and pathologic tissues, cyto- and histochemical studies on enzyme and subcellular organelle localization in cells and tissues, membrane interactions, and subcellular changes in cells induced by changes in their biochemical and physical environments. The objective of these investigations is to further basic knowledge of cell and tissue ultrastructure and to reveal, at the ultrastructural level, the enzyme localization and organelle distribution in cells and tissues developing under normal and pathological conditions. Application received by Commissoner of Customs: March 18, 1977. Advice submitted by the Department of Health, Education, and Welfare on: June 8, 1977.

Docket Number: 77-00168. Applicant: Robert B. Brigham Hospital, 125 Parker Hill Avenue, Boston, Massachusetts 02120. Article: Ultramicrotome, Model LKB 8800A and accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article will be used for the study of biological materials which include tissues, cells and subcellular fractions. The various types of specimens will be embedded in hardened epoxy resins for sectioning. Investigations will include ultrastructural studies on normal cells which have been exposed to various biologically active peptides and proteins, studies on the morphology of subcellular fractions, studies on cell parasite interactions, immunocytochemical studies to localize binding sites of biologically active peptides and studies on the pathologically altered renal glomerulus. The main objective of this research is to elucidate morphologic changes that occur during the inflammatory response, to localize binding sites of small peptides on the surfaces of cells and to study structural alterations seen in allergic reactions. Application received by Commissioner of Customs: March 18, 1977. Advice submitted by the Department of Health, Education, and Welfare on: June 8, 1977.

Comments: No comments have been received with respect to any of the foregoing applications.

Decision: Applications approved. No instrument or apparatus of equivalent scientific value to the foreign articles for such purposes as these articles are intended to be used, is being manufactured in the United States.

Reasons: Each of the foreign articles provides a range of cutting speeds from 0.1 to 20 millimeters per second. The most closely comparable domestic instrument is the Model MT-2B ultramicrotome which is manufactured by Ivan Sorvall, Inc. (Sorvall). The Model MT-2B has a range of cutting speeds from 0.09 to 3.2 millimeters per second. The conditions for obtaining high-quality sections that are uniform in thickness, depend to a large extent on the hardness, consistency, toughness and other properties of the specimen materials, the properties of the embedding materials, and geometry of the block. In connection with a prior application (Docket Number 69-00665-33-46500), which relates to the duty-free entry of an article that is identical to those to which the foregoing applications relate, the Department of Health, Education, and Welfare (HEW) advised that "Smooth cuts are obtained when the speed of cutting (among such [other] factors as knife edge condition and angle), is adjusted to the characteristics of the material being sectioned. The range of cutting speeds and a capability for the higher cutting speeds is, therefore, a pertinent characteristic of the ultramicrotome to be used for sectioning materials that experience has shown difficult to section." In connection with another prior application (Docket Number 70-00077-33-46500) which also relates to an article that is identical to those described above, HEW advised that "ultrathin sectioning of a variety of tissues having a wide range in density, hardness etc." requires a maximum range in cutting speed and, further, that the "production of ultrathin serial sections of specimens that have a great variation in physical properties is very difficult." Accordingly, HEW advises in its respectively cited memoranda, that cutting speeds in excess of 4 millimeters per second are pertinent to the satisfactory sectioning of the specimen materials and the relevant embedding materials that will be used by the applicants in their respective experiments. For these reasons, we find that the Sorvall Model M-2B ultramicrotome is not of equivalent scientific value to the foreign articles to which the foregoing applications relate, for such purposes as these articles are intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to any of the foreign articles to which the foregoing applications relate, for such purposes as these articles are intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director,
Special Import Programs Division.

[FR Doc.77-19660 Filed 7-8-77;8:45 am]

National Oceanic and Atmospheric Administration

GULF OF MEXICO FISHERY MANAGEMENT COUNCIL

Public Meeting

Notice is hereby given of a meeting of the Gulf of Mexico Fishery Management Council established by section 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265).

The Gulf of Mexico Fishery Management Council has authority, effective March 1, 1977, over fisheries within the fishery conservation zone adjacent to Alabama, west coast of Florida, Louisiana, Mississippi, and Texas. The Council will, among other things, prepare and submit to the Secretary of Commerce fishery management plans with respect to the fisheries within its area of authority, prepare comments on foreign fishing applications, and conduct public hearings.

The meeting will be held Tuesday, Wednesday, and Thursday, August 2, 3, and 4, 1977, in the Tamaran Hall, Rooms 21 and 22 of the Innisbrook Resort and Gulf Club, U.S. Highway 19 South, Tarpon Springs, Florida. The meeting will convene at 1:30 p.m. on August 2, and adjourn at about noon on August 4, 1977. The daily sessions will start at 8:30 a.m. and adjourn at 5 p.m., except as otherwise noted. The meeting may be extended or shortened depending on progress on the agenda.

PROPOSED AGENDA

1. Management plans.
2. Personnel and administration categories.
3. Review of foreign fishing applications, if any.
4. Other fishery management business.

This meeting is open to the public and there will be seating for a limited number of public members available on a first-come, first-served basis.

Members of the public having an interest in specific items for discussion are also advised that agenda changes are

at times made prior to the meeting. To receive information on changes, if any, made to the agenda, interested members of the public should contact on or about July 25, 1977:

Wayne E. Swingle, Executive Director, Gulf of Mexico Fishery Management Council, Lincoln Center, Suite 881, 5401 West Kennedy Boulevard, Tampa, Florida 33609.

At the discretion of the Council, interested members of the public may be permitted to speak at times which will allow the orderly conduct of Council business. Interested members of the public who wish to submit written comments should do so by addressing the Executive Director at the above address. To receive due consideration and facilitate inclusion of these comments in the record of the meeting, typewritten statements should be received within 10 days after the close of the Council meeting.

Dated: July 6, 1977.

WINFRED H. MEIBOHM,
Associate Director, National Marine Fisheries Service.

[FR Doc.77-19627 Filed 7-8-77;8:45 am]

Office of the Secretary

[Dept. Administrative Order 208-14]

DEPARTMENT OF COMMERCE PATENT FOR CONTRACTS AND GRANTS

Policies, Procedures and Clauses Regarding Inventions

This order effective June 13, 1977 supersedes the material appearing at 32 FR 15890 of November 18, 1967.

SECTION 1. *Purpose and Scope.* .01 This order sets forth policies, procedures, and clauses with respect to inventions made in the course of or under a contract or subcontract entered into with or for the benefit of the Government where a purpose is the conduct of experimental, developmental or research work. These policies, procedures and clauses shall also be applicable to grants issued by the Department and its operating units where experimental, developmental or research work is involved.

Essentially, this order provides criteria for determining the allocation of rights in inventions resulting from Department-sponsored research and development contracts and grants, to promote their expeditious development so that the public can benefit from early civilian commercialization and use of the inventions; and to insure their continued availability. In applying this order, two of the factors to be weighed are the need for incentives to draw forth private initiatives; and the need to promote healthy competition in industry.

.02 This revision: a. Redefines the responsibilities of the Assistant Secretary for Science and Technology, the Department of Commerce Contract Inventions Committee, the Contracting Officer and the Assistant General Counsel for Science and Technology;

b. Defines the responsibilities of the Grants Officer; and

c. Implements the President's 1971 Statement of Government Patent Policy (36 FR 16887, Aug. 26, 1971) and the Federal Procurement Regulations, 41 CFR Subpart 1-9.1, issued May 7, 1975.

.03 All sections beginning with the numbers "1-9" cited in this order refer to corresponding sections on 41 CFR 1-9.1.

SEC. 2. *Definitions.* .01 For the purpose of this order, the following terms shall have the meanings set forth below:

a. "Contract" means any contract, agreement, or other arrangement or subcontract entered into with or for the benefit of the Government where a purpose of the contract is the conduct of experimental, developmental, or research work;

b. "Grant" means any agreement entered into with or for the benefit of the Government where an individual, firm, or organization, public or private, receives a Government grant or subgrant in money or property and where a purpose of the grant is the conduct of experimental, developmental, or research work;

c. "Assistant Secretary" means the Assistant Secretary for Science and Technology; and

d. "Assistant General Counsel" means the Assistant General Counsel for Science and Technology of the Department of Commerce.

.02 "Subject Invention," as defined in the Patent Rights clauses in §§ 1-9.107-5 and 1-9.107-6 and in this order, means any invention or discovery of the contractor conceived or first actually reduced to practice in the course of or under a contract, and includes any art, method, process, machine, manufacture, design, or composition of matter, or any new and useful improvement thereof, or any variety of plant which is, or may be, patentable under the Patent Laws of the United States of America or any foreign country.

SEC. 3. Responsibilities.—.01 *Responsibilities of the Assistant Secretary.* a. With respect to each contract or grant falling within the scope of this order, the Assistant Secretary, upon appropriate notification from the Contracting or Grants Officer, shall:

1. Certify pursuant to § 1-9.107-3(a) when contractor or grantee retention of greater rights than a nonexclusive license at the time of contracting or granting will best serve the public interest;

2. Determine pursuant to § 1-9.107-3(a) whether the contractor or grantee may retain greater rights than a nonexclusive license after the invention has been identified;

3. Determine whether the contractor, grantee, or an employee of the contractor or grantee, may retain greater rights than a nonexclusive licensee to an identified invention pursuant to:

(a) The criteria in § 1-9.109-6(d) when the contract or grant contains the Patent Rights clause in § 1-9.107-5(a) or § 1-9.107-6(a); or

(b) The criteria in § 1-9.109-6(e) when the contract or grant contains the Patent Rights clause in § 1-9.107-5(c) or §1-9.-107-6(b);

4. Determine whether a contractor's or grantee's request, submitted pursuant to § 1-9.109-6(g)(1), for greater foreign rights in a Subject Invention should be granted;

5. Determine the appropriate patent rights clause or any modified patent rights clause to be used in a particular contracting or grant situation;

6. Determine whether the contractor shall be required, pursuant to § 1-9.107-3(f) or (g), to grant a nonexclusive or exclusive license on a Subject Invention to responsible applicant(s) on terms that are reasonable under the circumstances;

7. Determine pursuant to § 1-9.107-4(d), whether at the time of contracting, it would be in the national interest to provide the Government with the right to grant a sublicense in any Subject Invention to any foreign government pursuant to any treaty or agreement;

8. Determine pursuant to § 1-9.107-4(d), whether at the time of contracting, it would be in the public interest to reserve the right specified in subparagraph .01a.8. of this section and when the right is reserved, whether the license shall be acquired after the Subject Invention has been identified; and

9. Determine pursuant to § 1-9.107-4(e)(3), whether the contract shall reserve to the contractor an irrevocable, nonexclusive, royalty-free license in any Subject Invention.

b. The Assistant Secretary may prescribe guidelines for Contracting and Grants Officers regarding special situations as described in § 1-9.107-3(c). These guidelines shall be published in the FEDERAL REGISTER.

c. The determinations listed above in subparagraph .01a. shall be the final agency action for the Department.

d. Before carrying out the responsibilities specified in subparagraph .01a. in a particular contracting or grant situation, the Assistant Secretary shall obtain the written opinion and recommendation of the Department of Commerce Contract Inventions Committee established under paragraph .02 of this section, unless it is determined that an emergency situation exists, requiring immediate action. In nonemergency contracting and grant situations, the Assistant Secretary shall consider the opinion of the Committee before acting, and may act by adopting or modifying its recommendation.

e. The Assistant Secretary may at any time provide guidance to the Contracting or Grants Officer with respect to any of the functions set forth in paragraphs .04 and .05 of this section.

f. Pursuant to § 1-9.109-3, the Assistant Secretary, through the Assistant General Counsel, shall take any necessary steps to ensure compliance by the contractor or grantee with the obligations of the Patent Rights clause of the contract or grant.

.02 *Department of Commerce Contract Inventions Committee.* a. There shall be established a Department of

Commerce Contract Inventions Committee for the purpose of assisting and advising the Assistant Secretary in the performance of the responsibilities specified in subparagraph .01a. of this section.

b. The members of the Committee shall be appointed by the Assistant Secretary and shall include members from operating units in the Department engaged in research and development activities, but not necessarily members from every unit engaged in such activities. Each member shall be selected in consultation with the head of the operating unit employing the prospective member. Insofar as possible, members shall have a technical background and be knowledgeable of contract practices, specifically with regard to the patent aspects thereof. The Assistant Secretary shall designate one of the members to serve as the Committee's chairman. The Committee may adopt such rules and procedures as it deems appropriate.

c. The Patent Adviser, National Bureau of Standards, under the direct supervision of the Assistant General Counsel, shall advise the Committee and shall record the basis for determinations regarding exceptional circumstances in § 1-9.107-3(a), retention of greater rights pursuant to § 1-9.109-6, and determinations under § 1-9.107-4(d).

.03 *Responsibilities of the Assistant General Counsel.* The Assistant General Counsel under the professional supervision of the General Counsel shall:

a. Take appropriate action to protect by patenting or publication any Subject Invention, title to which has been acquired by the Government;

b. Secure and properly record all instruments confirmatory of the rights reserved to the Government in any Subject Invention, title to which is retained by the contractor or grantee; and

c. Take all other steps which he shall deem appropriate to secure, protect, and enforce the rights of the Government in Subject Inventions.

.04 *Responsibilities of the Contracting Officer.* a. The Contracting Officer shall in every situation involving a determination which is the responsibility of the Assistant Secretary under subparagraph 3.01(a) request by memorandum a decision from the Assistant Secretary. The Contracting Officer's memorandum shall in each case be forwarded to the Assistant Secretary through the Assistant General Counsel.

b. The Contracting Officer:

1. Shall upon receipt of a determination of the Assistant Secretary pursuant to subparagraph 3.01(a) of this order take the appropriate steps to implement that determination,

2 Shall include in a contract the Patent Rights clause in § 1-9.107-5(a) whenever the Contracting Officer determines that the work to be performed under the contract falls within § 1-9.107-3(a) (1) to (4); this clause provides that the Government shall acquire title to Subject Inventions under certain circumstances, subject to the reservation of nonexclusive license rights to the contractor;

3. Shall include in a contract the Patent Rights clause in § 1-9.107-5(b) whenever the Contracting Officer determines that the work to be performed under the contract does not come within § 1-9.107-3(a) (1) to (4) but is within § 1-9.107-3(b); this clause provides that title to Subject Inventions shall remain with the contractor, subject to the acquisition of certain specified rights by the Government;

4. Shall include in a contract the Patent Rights clause in § 1-9.107-5(c) whenever the Contracting Officer determines that the work to be performed under the contract does not come within § 1-9.107-3 (a) (1) to (4) or (b) but is within § 1-9.107-3(c); this clause provides that the allocation of rights in Subject Inventions shall be deferred until after the Inventions have been identified;

5. May determine, pursuant to § 1-9.107-4(e)(2), that the contractor may reserve a revocable, nonexclusive, royalty-free license in Subject Inventions only upon a request by the contractor for retention of such a license;

6. May determine, pursuant to § 1-9.104-4(e)(4), that the contractor may retain an irrevocable, nonexclusive, royalty-free license in an invention(s) constructively reduced to practice prior to the effective date of the contract;

7. Shall provide the contractor with the Patent Rights clause to be included in a subcontract, pursuant to § 1-9.107-4(f), whenever the prime contractor or a subcontractor considers the inclusion of the Patent Rights clause of the prime contract in the subcontract to be inconsistent with the policy expressed in § 1-9.107-3, or when a subcontractor refuses to accept the Patent Rights clause in the subcontract;

8. Shall restrict publication of an invention disclosure, pursuant to § 1-9.107-4(g), where it is necessary to protect the interests of the Government or the contractor in obtaining foreign patents;

9. May request the contractor to furnish a description of the procedure that has been established to ensure that Subject Inventions are promptly identified and timely disclosed pursuant to paragraph (e) of the Patent Rights clauses in § 1-9.107-5 and may, pursuant to subparagraph (g)(2)(iii) of the clauses, notify the contractor to correct or eliminate any material deficiency in the procedures;

10. May examine, pursuant to subparagraph (g)(1) of the Patent Rights clauses in § 1-9.107-5, any books (including laboratory notebooks), records, documents and any other supporting data of the contractor which the Contracting Officer reasonably deems pertinent to the discovery or identification of Subject Inventions to determine compliance with the requirements of the clauses, and may, when appropriate, assign a designee to effect such examination;

11. May review, pursuant to and under the conditions specified in subparagraph (g)(2) of the Patent Rights clauses of § 1-9.107-5, all books (including laboratory notebooks), records and documents of the contractor relating to the conception or first actual reduction to practice of inventions in the same field of technology as the work under the contract to determine whether any such inventions are Subject Inventions, and may, when appropriate, assign a designee to effect such review;

12. May authorize a subcontractor to furnish the papers and other information specified in subparagraph (i)(4) of the Patent Rights clauses of § 1-9.107-5 to the contractor for transmission to the Contracting Officer;

13. May request the contractor to furnish a copy of any subcontract, pursuant to subparagraph (i)(5) of the Patent Rights clauses in § 1-9.107-5;

14. May request the contractor to convey to the Government, subject to the license specified in paragraph (d) of the Patent Rights clause in § 1-9.107-5(b);

(a) The entire "domestic" right, title and interest in a Subject Invention under the conditions specified in subparagraph (b)(2) of the Patent Rights clause in § 1-9.107-5(b); and

(b) The entire right, title and interest in a Subject Invention in any "foreign" country under the conditions specified in subparagraph (b)(3) of the Patent Rights clause in § 1-9.107-5(b);

15. May approve requests for extension of time in which the contractor shall:

(a) File a "domestic" patent application on a Subject Invention pursuant to subparagraph (j)(1) of the Patent Rights clause in § 1-9.107-5(b); and

(b) File a "foreign" patent application on a Subject Invention pursuant to subparagraph (k)(1)(iii) of the Patent Rights clause in § 1-9.107-5(b);

16. May authorize reimbursement, pursuant to § 1-9.109-6(b), to the party causing a United States patent application to be filed for the reasonable costs of the filing and for any prosecution that may have occurred;

17. May authorize the contractor, pursuant to § 1-9.109-6(g)(2), to file a patent application on a Subject Invention in any foreign country where the Government determines not to file a patent application;

18. Shall fully document in writing the contract file to support the selection of the Patent Rights clause for inclusion in a contract (procedures for providing documentation of the file shall be as prescribed by the Director, Office of Administrative Services and Procurement, Office of the Secretary);

19. Shall determine whether at the time of contracting, it would not be in the public interest to acquire a paid-up license in any Subject Invention for States and municipal governments, and shall record the basis for such determination;

20. Shall determine pursuant to § 1-9.107-4(c), whether it would be in the public interest to reserve the right to acquire a paid-up license in any Subject Invention for States and domestic municipal governments and, when the right is reserved, whether the license shall be acquired after the Invention has been identified, and shall record the basis for such determination;

21. Shall determine whether the contractor has forfeited to the Government all rights in a Subject Invention pursuant to paragraph (f) of the Patent Rights clauses in § 1–9.107–5;

22. May withhold payment under the contract pursuant to paragraph (h) of the Patent Rights clauses in § 1–9.107–5;

23. Shall determine, pursuant to subparagraph (d)(2) of the Patent Rights clauses in § 1–9.107–5, whether a domestic nonexclusive license on a Subject Invention retained by the contractor shall be revoked or modified to the extent necessary to achieve expeditious practical application of the Subject Invention under 41 CFR 101–4.103–3;

24. Shall determine, pursuant to subparagraph (d)(2) of the Patent Rights clauses in § 1–9.107–5, whether the contractor's nonexclusive license in a Subject Invention in any foreign country may be revoked or modified to the extent the contractor, or the contractor's domestic subsidiaries or affiliates, have failed to achieve the practical application of the invention in that foreign country; and

25. Shall determine, pursuant to paragraph (d) of the Patent Rights clause in § 1–9.107–6(a), whether the contractor's nonexclusive license in a patent application filed in any country on a Subject Invention and any resulting patent shall be revoked.

c. Before making any determination pursuant to subparagraphs 23, 24 and 25 of subparagraph .04b. of this section, the Contracting Officer shall furnish the contractor a written notice of the intention to make such a determination and the contractor shall be allowed thirty (30) days (or such longer period as may be allowed by the Contracting Officer for good cause shown in writing by the contractor) after the notice to show cause why such determination should not be made. The determination of the Contracting Officer shall be final and conclusive unless within said thirty (30) days (or such longer time as may be allowed), the contractor mails or otherwise furnishes to the Contracting Officer a written appeal addressed to the Assistant Secretary. The determination of the Assistant Secretary with respect to any such appeal shall be the final agency action for the Department.

.05 *Responsibilities of the Grants Officer.* a. The Grants Officer shall in every situation involving a determination which is the responsibility of the Assistant Secretary under subparagraph 3.01(a) request by memorandum a decision from the Assistant Secretary. The Grants Officer's memorandum shall in each case be forwarded to the Assistant Secretary through the Assistant General Counsel.

b. The Grants Officer: 1. Shall upon receipt of a determination of the Assistant Secretary pursuant to subparagraph 3.01 (a) of this order take the appropriate steps to implement that determination;

2. Shall include in a grant the Patent Rights clause in § 1–9.107–6(a) whenever the Grants Officer determines that the work to be performed under the grant is for basic or applied research with a nonprofit organization other than for the operation of a Government-owned research or production facility and falls within § 1–9.107–3(a) (1) to (4); this clause provides that the Government shall acquire title to Subject Inventions under certain circumstances, subject to the reservation of nonexclusive license rights to the contractor;

3. Shall include in a grant the Patent Rights clause in § 1–9.107–6(b) whenever the Grants Officer determines that the work to be performed under the grant is for basic or applied research with a nonprofit organization other than for operation of a Government-owned research or production facility and does not come within § 1–9.107–3(a) (1) to (4) but is within § 1–9.107–3(c); this clause provides that the allocation of rights in Subject Inventions shall be deferred until after the Inventions have been identified;

4. Shall restrict publication of an invention disclosure pursuant to § 1–9.107–4(g), where it is necessary to protect the interests of the Government or the grantee in obtaining foreign patents;

5. May direct the grantee, pursuant to paragraph (e) in the Patent Rights clause in § 1–9.107–6 (a) or (b), not to:

(a) Obtain patent agreements to effectuate the provisions of this clause from all persons who shall perform any part of the work under the grant;

(b) Insert in a subgrant provisions making this clause applicable to the subgrantee and its employees; and

(c) Promptly notify the Grants Officer of the award of any such subgrant, when the work to be performed under the grant or subgrant is not likely to produce a Subject Invention made by the persons specified in subparagraph a. or by the subgrantee or its employees specified in subparagraph b. above;

6. May authorize reimbursement, pursuant to § 1–9.109–6(b) to the party causing a United States patent application to be filed for the reasonable costs of the filing and for any prosecution that may have occurred;

7. May authorize the grantee, pursuant to § 1–9.109–6(g)(2), to file in patent application on a Subject Invention in any foreign country where the Government determines not to file a patent application; and

8. Shall fully document in writing the grant file to support the selection of the Patent Rights clause for inclusion in a grant (procedures for providing documentation of the file shall be as prescribed by the Director, Office of Administrative Services and Procurement, Office of the Secretary).

.06 *Request for advice.* With respect to any of the functions set out in paragraphs .04 and .05 of this section, the Contracting or Grants Officer may, in their discretion, request an advisory opinion from the Assistant Secretary.

SEC. 4. Forwarding of papers received under contracts and grants. .01 The Contracting and Grants Officers shall furnish the Patent Adviser, National Bureau of Standards, promptly upon receipt thereof from a contractor or grantee, a copy of:

a. The disclosure of each Subject Invention;

b. Each interim and final report listing all Subject Inventions or certifying that no Subject Inventions were made under the contract or grant;

c. Any patent application filed on a Subject Invention by the contractor or grantee and a copy of the resulting patent;

d. Any notification of a decision of the contractor or grantee not to continue prosecution of an application filed on a Subject Invention and the instrument granting the Government a power of attorney in the application;

e. Each instrument confirmatory of rights of the Government in a patent application filed on a Subject Invention and the power to inspect and make copies of such patent application;

f. Any decision of the contractor not to retain principal domestic rights in a Subject Invention and any information concerning sale, public use, or publication of the invention;

g. All subcontracts and subgrants received under the Patent Rights clause in the contract or grant;

h. All decisions made by the Contracting or Grants Officer pursuant to any provision of the Patent Rights clause;

i. A copy of each document supporting the selection of the Patent Rights clause for inclusion in a contract or grant;

j. All other reports, papers and other information which may be submitted under the Patent Rights clause in the contract or grant; and

k. Any other documents or materials which the Patent Adviser may request.

.02 Upon receipt of the papers specified in paragraph .01 of this section, the Patent Adviser, National Bureau of Standards, under the direct supervision of the Assistant General Counsel shall:

a. Maintain a docket of Subject Inventions;

b. Take appropriate action to protect by patenting or publication any Subject Invention, title to which has been acquired by the Government;

c. Secure and properly record all instruments confirmatory of the rights reserved to the Government in any Subject Invention, title to which is retained by the contractor or grantee;

d. Take steps necessary to secure, protect and enforce the rights of the Government in Subject Inventions; and

e. Take steps necessary to ensure compliance by the contractor or grantee with the obligations of the Patent Rights clause in the contract or grant.

Effective date: June 13, 1977.

ELSA A. PORTER,
Assistant Secretary for Administration.

[FR Doc.77-19541 Filed 7-8-77;8:45 am]

[Dept. Organization Order 45-1, Amdt. 3]

ECONOMIC DEVELOPMENT ADMINISTRATION

Establishment

This order effective June 1, 1977, further amends the material appearing at 40 FR 5549 of February 6, 1975, 40 FR 7111 of February 19, 1975, and 41 FR 5858 of February 10, 1976, Department Organization Order 45-1, dated December 24, 1974, is hereby further amended as shown below. The purpose of this amendment is to establish the Office of Special Projects within EDA (paragraph 3.02).

1. In section 3. Office of the Assistant Secretary for Eocnomic Development, add a new paragraph .02, as shown below, and renumber the existing paragraphs .02 through .04 as .03 through .05, respectively.

".02 The Office of Special Projects shall serve as a principal staff office of the Assistant Secretary. The Office shall provide advice, direction and coordination for the development and implementation of selected innovative economic development programs and projects to assist selected urban areas, special areas such as the Mexican-American border and Puerto Rico, and special groups identified by the Assistant Secretary. In accomplishing these functions the Office shall develop necessary implementation plans, strategies, and procedures and coordinate, as appropriate, with other Federal, State, and local organizations. The Office shall be headed by a director who shall report and be responsible to the Assistant Secretary."

2. The organization chart, Exhibit 1, attached to this amendment supersedes the organization chart dated December 24, 1976. A copy of the organization chart is on file with the original of this document with the Office of the Federal Register.

Effective date: June 1, 1977.

ROBERT HALL,
Assistant Secretary for Economic Development.

Approved:

ELSA C. PORTER,
Assistant Secretary for Administration.

[FR Doc.77-19540 Filed 7-8-77;8:45 am]

[Dept. Organization Order 25-5A]

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Statement of Organization, Functions, and Delegation of Authority

This order effective June 3, 1977, supersedes the materials appearing at 39 FR 27486 of July 29, 1974, 40 FR 36608 of August 21, 1975, 40 FR 42764 of September 16, 1975, 40 FR 58882 of December 19, 1975, 41 FR 50317 of November 15, 1976, 41 FR 50317 of November 15, 1976, and 41 FR 53525 of December 7, 1976.

SECTION 1. *Purpose.* This order delegates authority to the Administrator of the National Oceanic and Atmospheric Administration ("NOAA") and prescribes the functions of NOAA. This revision: (1) Incorporates outstanding amendments; (2) delegates to the Administrator, NOAA, with certain reservations, the authority of the Secretary under the National Weather Modification Policy Act of 1976; (3) delegates, to the Administrator, NOAA the Secretary's authority related to certain NOAA Commissioned Corps personnel actions; and (4) generally updates the language of the order.

SEC. 2. *Status and line of authority.* .01 NOAA, established by Reorganization Plan No. 4 of 1970, effective October 3, 1970, is continued as an operating unit of the Department of Commerce.

.02 As provided by Reorganization Plan No. 4 of 1970:

a. The Administrator of NOAA who is appointed by the President by and with the advice and consent of the Senate, shall be the head of NOAA.

b. The Deputy Administrator of NOAA, who is appointed by the President by and with the advice and consent of the Senate, shall perform such functions as the Administrator shall from time to time assign or delegate, and shall act as Administrator during the absence or disability of the Administrator or in the event of a vacancy in the office of Administrator.

c. The Associate Administrator of NOAA, who is appointed by the President by and with the advice and consent of the Senate, shall perform such functions as the Administrator shall from time to time assign or delegate, and shall act as Administrator during the absence or disability of the Administrator and Deputy Administrator.

.03 The Administrator shall report and be responsible to the Secretary of Commerce.

SEC. 3. *Delegation of authority.* .01 Pursuant to the authority vested in the Secretary of Commerce by Reorganization Plan No. 4 of 1970, Executive Order 11564 of October 6, 1970, and otherwise by law, the Administrator is hereby delegated authority to perform the following functions vested in the Secretary of Commerce: *Provided, however,* That the Secretary reserves the authority to provide general policy guidance to the Administrator and, from time to time in the Secretary's discretion, either on the Secretary's own initiative or at the request of the Administrator, to consult with the Administrator to the extent permitted by law concerning the functions delegated by this section:

a. The functions in Title 15, Chapter 9 and in Title 49, section 1463, of the U.S. Code which relate to the provision of weather services.

b. The functions relating to weather in Title 49, Chapter 15 of the U.S. Code, which pertain to international aviation facilities.

c. The functions in 15 U.S.C. 272(f)(12), which relate to the transmission of radio waves, as applicable to the functions assigned herein.

d. The functions in Title 33, Chapter 17, U.S. Code, which pertain to commissioned officers, surveys and related matters.

e. The functions of sections 901(3) (a) and (b), 905 and 906 of Executive Order 11490, as amended, and the functions of Executive Order 10480, as amended. These relate to emergency preparedness, provision of weather, geodetic, hydrographic, and oceanographic data in consonance with civil defense programs, and developing overall plans and programs for the fishing industry's continued production during an emergency.

f. The functions in sections 3 and 4 of the Office of Management and Budget Circular No. A-62 of November 13, 1963, which pertain to the coordination of Federal meteorological services and supporting research.

g. The functions in sections 3b. and 4 of the Office of Management and Budget Circular No. A-16 of May 6, 1967, which pertain to the establishment and maintenance of the National Networks of Geodetic Control, and to the development and execution of a coordinated national program of geodetic surveys.

h. The functions in the President's memorandum of July 5, 1968, issued in accord with Senate concurrent resolution 67 of May 29, 1968, furthering participation in and support of the World Weather Program by the United States. The plan to be developed annually for submission by the President to Congress on the proposed participation by Federal agencies shall be prepared for transmittal to the President by the Secretary.

i. The functions in 42 U.S.C. 1891-3 which pertain to making grants for the support of basic scientific research.

j. The functions authorized to be performed by the Department of Commerce in accordance with Chapter 19B of Title 42, United States Code, relating to water resources planning.

k. The functions transferred to the Secretary of Commerce in section 1 of the Reorganization Plan No. 4 of 1970. The functions are:

(a) All functions vested by law in the Bureau of Commercial Fisheries of the Department of the Interior or in its head, together with all functions vested by law in the Secretary of the Interior or the Department of the Interior which are administered through that Bureau or are primarily related to the Bureau, exclusive of functions with respect to (1) Great Lakes fishery research and activities related to the Great Lakes Fisheries Commission, (2) Missouri River Reservoir research, (3) the Gulf Breeze Biological Laboratory of the said Bureau of Gulf Breeze, Florida, and (4) Trans-Alaska pipeline investigations.

(b) The functions vested in the Secretary of the Interior by the Act of September 22, 1959 (Pub. L. 86-359, 73 Stat. 642, 16 U.S.C. 760e-760g; relating to migratory marine species of game fish).

(c) The functions vested by law in the Secretary of the Interior, or in the Department of the Interior or in any officer

or instrumentality of that Department, which are administered through the Marine Minerals Technology Center of the Bureau of Mines.

(d) All functions vested in the National Science Foundation by the National Sea Grant College and Program Act of 1966 (80 Stat. 99), as amended (33 U.S.C. 1121 et seq.).

(e) Those functions vested in the Secretary of Defense or in any officer, employee, or organizational entity of the Department of Defense by the provision of Pub. L. 91-144, 83 Stat. 326, under the heading "Operation and maintenance, general" with respect to "surveys and charting of northern and northwestern lakes and connecting waters," or by other law, which come under the mission assigned as of July 1, 1969, to the United States Army Engineer District, Lake Survey, Corps of Engineers, Department of the Army and relate to (1) the conduct of hydrographic surveys of the Great Lakes and their outflow rivers, Lake Champlain, New York State Barge Canals, and the Minnesota-Ontario border lakes, and the compilation and publication of navigation charts, including recreational aspects, and the Great Lakes Pilot for the benefit and use of the public, (2) the conception, planning, and conduct of basic research and development in the fields of water motion, water characteristics, water quantity, and ice and snow, and (3) the publication of data and the results of research projects in forms useful to the Corps of Engineers and the public, and the operation of a Regional Data Center for the collection, coordination, analysis, and the furnishing to interested agencies of data relating to water resources of the Great Lakes.

(f) So much of the functions of the transferor officers and agencies referred to in or affected by the foregoing provisions of this section as is incidental to or necessary for the performance by or under the Secretary of Commerce of the functions transferred by those provisions or relates primarily to those functions. The transfers to the Secretary of Commerce made by this section shall be deemed to include the transfer of authority, provided by law, to prescribe regulations relating primarily to the transferred functions.

l. The functions in Title 37 of the U.S. Code with respect to pay and allowances for the Commissioned Officer Corps of NOAA established by section 4(d) of Reorganization Plan No. 4 of 1970.

m. The functions in Title 10 of the U.S. Code made applicable to commissioned officers of NOAA by 33 U.S.C. 857a.

n. The functions in the following sections of Executive Order 11023: sections 1(a) through 1(j) and 1(l); section 2(l); section 3; section 5; and section 6. These relate to the appointment, promotion, retirement, separation, and resignation of commissioned officers of NOAA, and to the employment of public vessels.

o. The functions in Title II of the National Housing Act, as amended (12 U.S.C. 1715m), which pertain to mortgage insurance for commissioned officers to aid in the construction and purchase of homes.

p. The functions in 7 U.S.C. 450b and 2220, which relate to cooperation with outside sources and disposition of funds received.

q. The functions relating to the operation of (1) the National Oceanographic Instrumentation Center, (2) the National Oceanographic Data Center, and (3) the National Data Buoy Development Project, whose programs and activities were transferred to the Secretary of Commerce by Executive Order 11564.

r. The functions relating to (1) upper air observations taken on board ocean station vessels and at specific Pacific Trust Territories, and (2) hydroclimatic observations taken at stations located along U.S. rivers and the Great Lakes, which programs and activities were transferred to the Secretary of Commerce by Executive Order 11564.

s. The functions in section 607 of the Merchant Marine Act, 1936, as amended by the Merchant Marine Act of 1970 (46 U.S.C. 1177), which relate to capital construction funds for those owning or leasing vessels which are operated in the fisheries of the United States, including, but not limited to, the adoption of regulations, and the preparation and signing of all necessary forms or agreements.

t. The functions prescribed in 15 U.S.C. 330 et seq., which petrain to collection, maintenance and dissemination of information concerning weather modification activities.

ii. The functions in 46 U.S.C. 749 (relating to the arbitration, compromise or settlement of maritime claims) with regard to any claim in the amount of $5,000 or less involving a vessel operated by the Administration.

v. The functions prescribed by the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 et seq.).

w. The functions prescribed in the Coastal Zone Management Act of 1972, as amended (16 U.S.C. 1451 et seq.), including those prescribed in Pub. L. 94-370, subject to the following exceptions and limitations whereby the Secretary reserves the authority to:

1. Carry out the mediation function under section 307(h) of the Act and to make the findings under subsections 307 (c) (3) and 307(d) of the Act; and

2. Approve initial regulations for the implementation of the coastal energy impact program contained in section 308 of the Act.

x. The functions prescribed by the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).

y. The functions prescribed by the Offshore Shrimp Fisheries Act of 1973 (16 U.S.C. 1100b et seq.).

z. The functions prescribed the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1401 et seq. and 16 U.S.C. 1431 et seq.).

aa. The functions in Paragraphs 4 and 5, Office of Telecommunications Policy Circular No. 12 of October 12, 1973, which pertains to the coordination of Federal planning programs for environmental telecommunications systems and services.

bb. The functions assigned to the Secretary of Commerce by the Atlantic Tunas Convention Act of 1975, Pub. L. 94-70.

cc. The functions relating to section 202 of the Disaster Relief Act of 1974 (42 U.S.C. 5132) specified in the delegation of authority from the Secretary of Housing and Urban Development (40 FR 42769), effective September 16, 1975, which pertains to disaster warnings for meteorological catastrophes.

dd. The functions prescribed in the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265, 16 U.S.C. 1801 et seq. and other miscellaneous provisions), subject to the following exceptions and limitations.

1. The Secretary reserves the authority to:

(a) Submit the annual reports to the Congress and the President under subsection 305(f) of the Act;

(b) Make final findings and notifications under subsection 306(b) of the Act;

(c) To issue, in particular instances, preliminary fishery management plans and implementing regulations under subsection 201(g) of the Act in each instance where the Secretary specifically determines such action is appropriate; and

(d) In particular instances to approve, disapprove, partially disapprove, or issue a fishery management plan or amendment and implementing regulations under sections 304 and 305 of the Act in each instance where the Secretary specifically determines that such action is appropriate.

2. To assure a full opportunity to the Secretary to exercise the authority which is reserved to the Secretary, the Administrator shall advise the Secretary before any final action is taken with respect to the following functions:

(a) The appointment of members of the Regional Fishery Management Councils under subparagraph 302(b)(1)(C) of the Act;

(b) The establishment of guidelines to assist in the development of fishery management plans under subsection 301(b) of the Act;

(c) The prescribing of uniform standards for each Regional Fishery Management Council under paragraph 302(f)(6) of the Act;

(d) The establishment of schedules of fees under paragraph 204(b)(10) of the Act;

(e) The taking of emergency actions under subsection 305(e) of the Act;

(f) The issuance of preliminary fishery management plans under subsection 201(g) of the Act; and

(g) The approval, disapproval, partial disapproval or issuance of a fishery management plan or amendment under section 304 or 305 of the Act.

3. The Administrator shall not redelegate beyond an Associate Administrator any of the final actions to be taken under those provisions of the Act set forth

in subparagraphs 3.01dd.2 (a) through (g) of this order.

ee. The functions prescribed in the National Weather Modification Policy Act of 1976, Pub. L. 94-490, except that the Secretary reserves the authority to submit the final report to the President and the Congress under Section 5(a) of the Act.

.02 The Administrator may exercise other authorities of the Secretary as applicable to performing the functions assigned in this order.

.03 The Administrator may delegate the Administrator's authority to any employee of NOAA subject to such conditions in the exercise of such authority as the Administrator may prescribe or as may be prescribed in this order.

SEC. 4. *Functions.* To ensure the safety and welfare of the public, and to further the Nation's interests and activities with respect to the protection of public health against environmental pollution, the protection and management of the Nation's biological, miner and water resources, the maintenance of environmental quality, agriculture, fisheries, industry, transportation, communications, space exploration, national defense and the preservation of the Nation's wilderness and recreation areas, NOAA shall perform the following functions:

a. Observe, collect, communicate, analyze, process, provide and disseminate comprehensive data and information about the state of the upper and lower atmosphere, of the oceans and the resources thereof including those in the seabed, of marine and anadromous fish and related biological resources, of inland waters, of the earth, the sun and the space environment;

b. Prepare and disseminate predictions of the future state of the environment and issue warnings of all severe hazards and extreme conditions of nature to all who may be affected;

c. Provide maps and charts of the oceans and inland waters for navigation, geophysical and other purposes, aeronautical charts, and related publications and services;

d. Operate and maintain a system for the storage, retrieval and dissemination of data relating to the state and resources of the oceans and inland waters including the seabed, and the state of the upper and lower atmosphere, of the earth, the sun and the space environment;

e. Explore the feasibility of, develop the basis for and undertake the modification and control of environmental phenomena;

f. Coordinate efforts pertinent to Federal agencies in support of national and international programs as may be assigned from time to time, such as Federal meteorological services and supporting research, World Weather Program, National Networks of Geodetic Control, Integrated Global Ocean Station System, and Marine Environmental Prediction, Mapping and Charting;

g. Administer a program of sea grant colleges and education, training and research in the fields of marine science, engineering and related disciplines as provided in the Sea Grant College and Program Act of 1966, as amended;

h. Perform basic and applied research and develop technology relating to the state and utilization of resources of the oceans and inland waters including the seabed, the upper and lower atmosphere, the earth, the sun and the space environment, as may be necessary or desirable to develop an understanding of the processes and phenomena involved;

i. Perform research and develop technology relating to the observation, communication, processing, correlation, analysis, dissemination, storage, retrieval, and use of environmental data as may be necessary or desirable to permit the Administration to discharge its responsibilities;

j. Acquire, analyze and disseminate data and perform basic and applied research on electromagnetic waves, as relate to or are useful in performing other functions assigned here; prepare and issue predictions of atmospheric, ionospheric and solar conditions, and warnings of disturbances thereof; and acquire, analyze and disseminate data and perform basic and applied research on the propagation of sound waves, and on interactions between sound waves and other phenomena;

k. Administer a program for the protection, management and conservation of marine mammals and endangered marine species; provide for the administration of the Pribilof Islands; assist the native inhabitants of those islands; and manage the fur seal herds of the North Pacific Ocean;

l. Perform economic studies, education and other services related to management and utilization of marine and anadromous fisheries, administer grant-in-aid, fishery products inspection, financial and technical assistance, and other programs to conserve and develop fisheries resources and to foster and maintain a viable climate for industry to produce efficiently under competitive conditions;

m. Develop and implement policies on international fisheries including the negotiation and implementation of agreements, conventions and treaties in that area; and enforce provisions of international treaties and agreements on fishing activities of United States nationals and perform surveillance of foreign fishing activities;

n. Participate in technical assistance programs for fishery development projects in foreign countries;

o. Develop technology and carry out scientific and engineering data collection and analysis and other functions to assess, monitor, harvest, and utilize marine and anadromous fishery resources and their products;

p. As a Departmentwide responsibility, coordinate the requirements for and the management and use of radio frequencies by all organizations of Commerce;

q. Administer a national management program to preserve, protect, develop, and where possible restore or enhance the land and water resources of the coastal zones, including grants, loans, and loan guarantees to the states and interagency coordination and cooperation, as provided by the Coastal Zone Management Act of 1972, as amended; and

r. Administer a marine sanctuaries program to preserve or restore such areas for their conservation, recreational, ecological, or esthetic values.

Effective date: June 3, 1977.

ELSA A. PORTER,
Assistant Secretary for Administration.

[FR Doc.77-19538 Filed 7-8-77;8:45 am]

[Dept. Organization Order 30-7A, Amdt. 2]

NATIONAL TECHNICAL INFORMATION SERVICE

Delegation of Authority

This order effective June 6, 1977 furthere amends the material appearing at 41 FR 18538 of May 5, 1976 and 41 FR 43753 of October 4, 1976.

Department Organization Order 30-7A of April 9, 1976 is hertby further amended as shown below. The purpose of this amendment is to delegate to the Director of NTIS the authority to administer an incentive awards program for Federal inventors.

1. In Section 3. "Delegation of authority," subparagraph 3.01d. is renumbered 3.01f., and new subparagraphs 3.01d. and 3.01e. are added to read as follows:

"d. Chapter 45 of Title 5, United States Code, as implemented by 5 CFR 451, to administer an incentive award program for Federal civil service and District of Columbia employee inventors.

"e. Executive Order 11438 (3 CFR 755 (1966-70 Comp.) 10 United States Code 1124 (1970)) to recommend to the Department of Defense, or to the Department of Transportation in the case of a member of the Coast Guard when it is not operating as a service in the Navy, that a cash award be made under the incentive awards program to a member of the armed forces."

2. In Section 4. "Functions." a. In pen and ink, remove the word "and" at the end of subparagraph 4.j.

b. In pen and ink, remove the period at the end of subparagraph 4.k. and after the word "Administration" insert: "; and".

c. A new subparagraph 4.l. is added to read as follows:

"l. Administer an incentive award program for Federal inventors as provided in Department Administrative Order 202-452."

Effective date: June 6, 1977.

ELSA C. PORTER,
Assistant Secretary for Administration.

[FR Doc. 77-19539 Filed 7-8-77;8:45 am]

CONSUMER PRODUCT SAFETY COMMISSION

TOXIC SUBSTANCES CONTROL ACT

Sharing of Chemical Information With Environmental Protection Agency

AGENCY: Consumer Product Safety Commission.

ACTION: Notice of intent to share chemical information with the Environmental Protection Agency.

SUMMARY: The Commission is considering furnishing the Environmental Protection Agency with data derived from the chemical information submitted to the Commission under its Special Order of August 18, 1975. The Environmental Protection Agency requested the data under section 26(a)(2) of the Toxic Substances Control Act, 15 U.S.C. 2625(a)(2), for the use of the Interagency Testing Commiteee and contractors in compiling a priority list of 50 chemicals which the committee recommends that the Environmental Protection Agency should test. The proposed sharing of information would not include any original or duplicate tapes of product formulas claimed to be trade secrets. The data release would be limited to identifying the chemicals contained in the products surveyed, the number of products by product use categories that contain a particular chemical, the ranking of the chemical in terms of its frequency of appearance and information about the concentration level of the chemical.

Although the Commission does not believe that the proposed release contains confidential commercial information, the Commission will enter into an agreement with the Environmental Protection Agency to insure its confidential treatment because the data sharing does identify some chemicals that appear in only one or a few products.

DATE: The Commission proposes to share this information with Environmental Protection Agency on or about August 1, 1977. Comments must be received in the Office of the Secretary of the Commission no later than July 20, 1977.

ADDRESS: Comments to: Office of the Secretary, Consumer Product Safety Commission, 1111 18th Street, NW., Washington, D.C. 20207.

FOR FURTHER INFORMATION CONTACT:

Jeanette Wiltse or Edward J. Cull, General Law Division, Office of the General Counsel, Consumer Product Safety Commission, 1111 18th Street, N.W., Washington, D.C. 20207 (202-634-7770).

Details on the Proposed Sharing of Chemical Information

The Environmental Protection Agency (EPA) has requested the Commission under section 26(a)(2) of the Toxic Substances Control Act, 15 U.S.C. 2625(a)(2), to grant it access to data derived from chemical information submitted to the Commission under its Special Order of August 18, 1975 entitled Chemical Formulations for Specified Chemical Products (40 FR 36617, August 21, 1975). The requested data would, in turn, be furnished by EPA under Section 14(a) of the Toxic Substances Control Act, 15 U.S.C. 2613(a), to the Interagency Testing Committee and contractors to be used in assessing human and environmental exposure to chemicals. This is one of the factors to be considered by the Committee in compiling a priority list of 50 chemicals for mandatory testing which the Committee recommends that EPA test to determine if they cause cancer, gene mutations, or birth defects. The Interagency Testing Committee, which was created under section 4(e) of the Toxic Substances Control Act, 15 U.S.C. 2603(e), is composed of representatives from each of the eight following federal entities which are particularly concerned with exposure to chemicals: Environmental Protection Agency, Department of Labor, Council on Environmental Quality, National Institute for Occupational Safety and Health, National Institute of Environmental Health Sciences, National Cancer Institute, National Science Foundation and Department of Commerce.

The Commission has already furnished the Interagency Testing Committee, under section 26(a)(2) of the Toxic Substances Control Act, 15 U.S.C. 2625(a)(2), some chemical exposure data derived from the chemical information previously submitted under the Commission's Special Order. The data furnished was limited to a list of those chemicals which appeared in ten or more products covered by the Commission's Special Order. For example, the following information about the chemical titanium oxide was furnished to the Interagency Testing Committee because the chemical appears in more than 10 products surveyed:

(1) The ranking of the chemical in terms of its frequency of appearance. In the case of titanium oxide, it was ranked number one because it was found in more products surveyed (i.e., 5,700) than any other chemical.

(2) The average concentration of the chemical in the products surveyed. In the case of the titanium oxide, its average concentration level in the 5,700 products was 12.3 percent.

(3) The number of products which contain the chemical as determined by the following eight categories of concentration: less than one percent concentration, between one and 4.9 percent concentration, between 5 and 9.9 percent concentration, between 10 and 19.9 percent concentration, between 20 and 39.9 percent concentration, between 40 and 59.9 percent concentration, between 60 and 79.9 percent concentration, and between 80 and 100 percent concentration. In the case of titanium oxide, 328 products were found to contain less than one percent titanium oxide, 1181 products contained between 1 and 4.9 percent, 1053 products between 5 and 9.9 percent, etc.

(4) The number of products which contained the chemical as determined by product use categories such as paints, household aerosols, etc. In the case of titanium oxide, over 5,000 paints were found to contain the chemical.

The Commission is considering granting EPA access to the data described above for those chemicals found in fewer than ten products. Although the Commission does not believe that such data constitutes confidential commercial information under the Freedom of Information Act, 5 U.S.C. 552(b)(4), the Consumer Product Safety Act, 15 U.S.C. 2055(a)(2), or 18 U.S.C. 1905, the hypothetical possibility exists that an individual could reconstruct a product formulation if such data were made publicly available and combined with other information. To avoid any possibility of this occurring, the proposed release of data to EPA will be accorded confidential treatment.

To insure confidential treatment of this information, the Commission will enter into an agreement with EPA which will stipulate that the data will be treated in accordance with the confidentiality requirements of the Toxic Substances Control Act, 15 U.S.C. 2613, and in accordance with the Commission's security procedures for safeguarding chemical formulation data (41 FR 36648, August 31, 1976). The Commission does not intend to release to EPA any original or duplicate tapes of product formulas claimed confidential.

It is believed that the release of this data will assist the Interagency Testing Committee in determining the human exposure level to certain chemicals and that this, in turn, will assist the Committee in more accurately determining whether or not a chemical should be considered for inclusion on its priority list. It is also believed to be in the interest of both government and industry if this data is shared with EPA avoiding the duplicate submission of the data under the Toxic Substances Control Act.

Because the Interagency Testing Committee must complete and submit its priority list of chemicals to EPA no later than October 1, 1977, as provided in section 4(e) of the Toxic Substances Control Act, 15 U.S.C. 2603(b), the Commission proposes to release the chemical data described above on or about August 1, 1977. Because of this deadline, the Commission invites the public to submit by July 20, 1977 any comments, suggestions or recommendations which it believes might prove helpful in reaching a final decision on whether or not to disclose. It is requested that commenters specifically address the following issues: (1) Does the proposed release of the chemical information in the format described above involve the release of confidential information? If so, please give specifics. (2) Do you believe the Commission should undertake any additional security procedures for the data release over and above those provided in its security regulations published at 41 FR 36648, August 8, 1976? If so, please specify.

Comments and any accompanying data or material should be submitted,

preferably in five copies, addressed to the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207. Comments received by the Commission may be inspected in the Office of the Secretary, at 1111 18th Street, NW., Washington, D.C. during working hours, Monday through Friday.

Dated: July 6, 1977.

RICHARD E. RAPPS,
Secretary, Consumer Product Safety Commission.

[FR Doc.77-19552 Filed 7-8-77;8:45 am]

DEPARTMENT OF DEFENSE

Department of the Navy

PRIVACY ACT OF 1974

Change to System of Records

On April 22, 1977, the Department of the Navy published a notice (42 FR 28047) for a new system of records identified as "N 00018 10, Child Advocacy Program File." No comments having been received, the record-system notice became effective on May 23, 1977. Notice is hereby given that this system-notice is being revised by deleting the reference to 5 U.S.C. § 552a(k)(5) from that portion of the system-notice entitled "Systems exempted from certain provisions of the act." This change is being made because the records contained in the system do not fall within the 5 U.S.C. § 552a(k)(5) exemption.

Accordingly, the system-notice for the system of records identified as "N 00018 10, Child Advocacy Program File" is revised to read as follows:

N 00018 10

System name:

Child Advocacy Program File.

System location:

Central Registry—Chief, Bureau of Medicine and Surgery, Navy Department, Washington, D.C. 20372. Individual Case Files—Naval Regional Medical Centers, naval hospitals and clinics (dispensaries), and duty station of the military sponsors. (Mailing addresses of duty stations are listed in the DOD directory in the Appendix to the Component System Notice.)

Categories of individuals covered by the system:

All children entitled to care at Navy medical and dental facilities whose abuse or neglect is brought to the attention of appropriate medical authorities and all persons suspected of abusing or neglecting such children.

Categories of records in the system:

Medical records of suspected and confirmed cases of child abuse or neglect, investigative reports, correspondence, child advocacy committee reports, follow-up and evaluative reports, and any other supportive data assembled relevant to individual child advocacy program files.

Authority for maintenance of the system:

5 U.S.C. 301, 10 U.S.C. 5132, 44 U.S.C. 3101.

Routine uses of records maintained by the system, including categories of users and the purposes of such uses:

Officials and employees of the Department of the Navy in the performance of their official duties relating to health and medical treatment of members and former members of the uniformed services, civilians, and dependents receiving medical care under Navy auspices; determining qualifications and suitability of Navy and Marine Corps personnel for various programs, duty assignments and fitness for continued military service; performance of research studies and compilation of statistical data.

Officials and employees of other components of the Department of Defense and other departments and agencies of the Executive Branch of government in the performance of their official duties relating to the coordination of child advocacy programs, medical care and research concerning child abuse and neglect.

The Attorney General of the United States or his authorized representatives in connection with litigation, or other matters under the direct jurisdiction of the Department of Justice or carried out as the legal representative of the Executive Branch agencies.

Federal, state, or local governmental agencies when it is deemed appropriate to utilize civilian resources in the counseling and treatment of individuals or families involved in child abuse or neglect, or when it is deemed appropriate or necessary to refer a case to civilian authorities for civil or criminal law enforcement.

Authorized officials and employees of the National Academy of Sciences, private organizations and individuals for authorized health research in the interest of the Federal Government and the public; and authorized surveying bodies for professional certification and accreditation.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Records may be stored in file folders, microfilm, magnetic tape, punched cards, machine lists, discs, and other computerized or machine readable media.

Retrievability:

Records are retrieved by name of the abused or neglected child and the social security number of the sponsor or guardian.

Safeguards:

Records are maintained in various kinds of filing equipment in specified monitored or controlled access rooms or areas. Public access is not permitted. Records are accessible only to authorized personnel that are properly screened and trained, and on a need-to-know basis only. Computer terminals are located in supervised areas with access controlled by password or other user code system.

Retention and disposal:

Child advocacy case records are maintained at the activity having cognizance of the case for a period of 5 years and are then destroyed. Central registry records are permanently retained under the control of the Bureau of Medicine and Surgery.

System manager(s) and address:

Central Registry—Chief, Bureau of Medicine and Surgery, Navy Department, Washington, D.C. 20372. Individual Case Files—commanding officers of medical treatment facilities under the command of the Chief, Bureau of Medicine and Surgery, where the treatment and reporting occurred.

Notification procedure:

Informational requests should be directed to the cognizant system manager(s). Requests should contain the full name of the child and social security number of the military or civilian sponsor or guardian, date and place of treatment and alleged reporting of incident. The requester may visit the Office of the Chief, Bureau of Medicine and Surgery, 23rd and E Streets NW., Washington, D.C., and the commanding officers of the individual medical treatment facilities to obtain information on whether or not the system contains records pertaining to him or her. Armed Forces I.D. card or other type of identification bearing the picture and signature of the requester will be considered adequate proof of identity.

Record access procedures:

The agency's rules for access to records may be obtained from the system manager.

Contesting record procedures:

The agency's rules for contesting contents and appealing initial determinations by the individual concerned may be obtained from the system manager

Record source categories:

Reports from physicians and other medical department personnel regarding the results of physical, dental, mental and other examinations, treatment evaluation, consultation, laboratory, x-ray, and special studies; reports and information from other sources including educational institutions, medical institutions, law enforcement agencies, public and private health and welfare agencies, and witnesses.

Systems exempted from certain provisions of the act:

Parts of this system may be exempt under 5 U.S.C. 552a(k)(2) as applicable.

For additional information contact the system manager(s).

K. D. LAWRENCE,
Captain, JAGC, U.S. Navy, Deputy Assistant Judge Advocate General (Administrative Law).

MAURICE W. ROCHE,
Director, Correspondence and Directives, Office of the Assistant Secretary of Defense (Comptroller).

JUNE 10, 1977.

[FR Doc.77-19708 Filed 7-8-77;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[PW11; FRL 759-4]

PESTICIDE PETITION

Withdrawal

On October 18, 1972, the Environmental Protection Agency (EPA) gave notice (37 FR 20015) that Uniroyal Chemicals, Division of Uniroyal, Inc., Bethany, CT 06525, had filed a petition (PP 3F1311). This petition proposed the establishment of a tolerance for residues of the herbicide CIPC (isopropyl N-(3-chlorophenyl) carbamate) in or on the raw agricultural commodity soybeans at 0.3 part per million.

Uniroyal Chemicals has withdrawn this petition without prejudice in according with the regulations (40 CFR 180.8) pertaining to Section 408 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(d)).

Dated: June 28, 1977.

DOUGLAS D. CAMPT,
Acting Director, Registration Division.

[FR Doc.77-19529 Filed 7-8-77;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[Report No. I-365]

INTERNATIONAL AND SATELLITE RADIO

Applications Accepted for Filing

JULY 5, 1977.

By the Chief, Common Carrier Bureau.

The Applications listed herein have been found, upon initial review, to be acceptable for filing. The Commission reserves the right to return any of these applications if, upon further examination, it is determined they are defective and not in conformance with the Commission's Rules, Regulations and its Policies. Final action will not be taken on any of these applications earlier than 31 days following the date of this notice. Section 309(d)(1).

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

SATELLITE COMMUNICATIONS SERVICES

504-DSE-ML-77 Hampton Roads Cablevision Co. (WB96), Newport News, Virginia. Modification of license to permit the operations of this station on a cost sharing basis with an unaffiliated cable television system in the area.

505-DSE-ML-77 Cable Haven TV, Inc. (WB64), Manhawkin, New Jersey. Modification of license to permit the reception of signals of WYAH-TV, Channel 27, Portsmouth, Virginia.

506-DSE-ML-77 Courier Cable Company, Inc. (WB77), Buffalo, New York. Modification of license to permit the reception of signals from WTCG-TV, Channel 17, Atlanta, Georgia, and WYAH-TV, Channel 27, Portsmouth, Virginia.

507-DSE-P/L-77 Clear Lake City Cablevision, Inc., Pasadena, Texas. For authority to construct, own, and operate a domestic communications satellite receive-only earth station at this location. Lat. 29°35'49", Long. 95°06'21". Rec. freq: 3700-4200 MHz. Emission—none listed. With a 4.5 meter antenna.

508-DSE-P/L-77 Western Tele-Communications, Inc., Memphis, Tennessee. For authority to construct and operate a domestic communication satellite receive-only earth station at this location. Lat. 35°07'19", Long. 89°41'47". Receive-only frequencies: 3700-4200 GHz. Emission 3600F9. With a 10 meter antenna.

509-DSE-P/L-77 Skyline Cable, Inc., Brookings, Oregon. For authority to construct, own, and operate a domestic communications satellite receive-only earth station at this location. Lat. 43°03'05", Long. 124°17'08". Rec. freq: 3700-4200 MHz. Emission 36000F9. With a 4.5 meter antenna.

510-DES-P/L-77 Gulf Coast-Bellaire Cable Television, Bellaire, Texas. For authority to construct and operate a domestic communications satellite receive-only earth station at this location. Lat. 29°42'27", Long. 95°28'01". Rec. freq: 3700-4200 MHz. Emission none listed. With a 6 meter antenna.

511-DSE-P/L-77 Columbia Cable TV, Inc., Columbia, South Carolina. For authority to construct, own, and operate a domestic communications satellite receive-only earth station at this location. Lat. 34°00'-06", Long. 81°01'00". Rec. freq: 3700-4200 MHz. Emission 36000F9. With a 5 meter antenna.

512-DSE-P/L-77 Catawba Valley Communications, Inc., Hickory, North Carolina. For authority to construct, own, and operate a domestic communications satellite receive-only earth station at this location. Lat. 35°43'43", Long. 81°19'17". Rec. freq: 3700-4200 MHz. Emission none listed. With a 5 meter antenna.

513-DSE-P/L-77 LaCrosse Westgate, Inc., Onalaska, Wisconsin. For authority to construct, own, and operate a domestic communications satellite receive-only earth station at this location. Lat. 43°53'01", Long. 91°13'54". Rec. freq: 3700-4200 MHz. Emission none listed. With a 6 meter antenna.

514-DSE-P-77 Dow Jones & Company, Inc., Denver, Colorado. For authority to construct a transmit/receive earth station at this location. Lat. 93°34'00", Long. 104°-51'29". Rec. freq: 3700-4200 MHz. Trans. freq: 5925-6425 MHz. Emission 200F9Y. With a 36 foot parabolic antenna.

515-DSE-P-77 Valparaiso Communications Systems, Valparaiso, Florida. For authority to construct, own, and operate a domestic communications satellite receive-only earth station at this location. Lat. 30°30'-34", Long. 86°30'05". Rec. freq: 3700-4200 MHz. Emission none listed. With a 5 meter antenna.

SSA-11-77 Western Union Telegraph Co., McLean, Virginia. Request for a temporary authorization to operate a temporary earth station at McLean, Virginia, for a period of three months but no later than October 31, 1977, to provide service to and from subscribers in the Washington, D.C., area.

[FR Doc.77-19647 Filed 7-8-77;8:45 am]

[Report No. 1060]

RULE MAKING PROCEEDINGS FILED

Petitions for Reconsideration of Actions

JULY 5, 1977.

Docket or RM No.	Rule No.	Subject	Date received
20001	Sec. 73.202(b)	Amendment of sec. 73.202(b) table of assignments, FM broadcast stations (Brewer, Maine). Filed by Harry G. Sells, attorney for Bangor Broadcasting Corp.	June 23, 1977

NOTE.—Oppositions to petitions for reconsideration must be filed on or before July 21, 1977. Replies to an opposition must be filed within 10 d after time for filing oppositions has expired.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

[FR Doc.77-19648 Filed 7-8-77;8:45 am]

FEDERAL ENERGY ADMINISTRATION

VOLUNTARY AGREEMENT AND PLAN OF ACTION TO IMPLEMENT THE INTERNATIONAL ENERGY PROGRAM

Meeting; Correction

In FR Doc. 77-18573, appearing at pages 33054 and 33055 in the FEDERAL REGISTER of June 29, 1977, the first paragraph of the notice is corrected by deleting the last sentence thereof and substituting the following:

"It is expected that the following draft agenda will be followed and that representatives of the IAB will be invited to join the meeting during discussion of items 6-14 of the agenda, or such other items as determined by the SEQ."

Issued in Washington, D.C., July 6, 1977.

ERIC J. FYGI,
Acting General Counsel,
Federal Energy Administration.

[FR Doc.77-19609 Filed 7-8-77;8:45 am]

CASES FILED WITH THE OFFICE OF EXCEPTIONS AND APPEALS

Week of June 17 Through June 24, 1977

Notice is hereby given that during the week of June 17 through June 24, 1977, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Federal Energy Administration's Office of Exceptions and Appeals.

Under the FEA's procedural regulations, 10 CFR, Part 205, any person who will be aggrieved by the FEA action sought in such cases may file with the FEA written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of those regulations, the date of service of notice shall be deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first.

ERIC J. FYGI,
Acting General Counsel.

JULY 1, 1977.

APPENDIX.—*List of cases received by the Office of Exceptions and appeals week of June 17 through June 24, 1977*

Date	Name and location of applicant	Case No.	Type of submission
June 17, 1977	Arkansas Louisiana Gas Co., Shreveport, La. (If granted: Arkansas Louisiana Gas Co. would be permitted to increase its prices to reflect nonproduct cost increases in excess of $.005/gal for natural gas liquid products produced at its Hamilton processing plant.)	FEE-4352	Price exception (sec. 212.165).
Do	Exxon Co., U.S.A., Houston, Tex. (If granted: The FEA's Apr. 29, 1977 decision and order Corp. would be rescinded.)	FXA-4357	Appeal of the decision and order in TOSCO Corp., 5 FEA par. (Apr. 29, 1977).
Do	Industrial Fuel Oils, Inc., Fort Wayne, Ind. (If granted: Industrial Fuel Oils, Inc. would be permitted to increase retroactively the prices for fuel oil which it sold during the period Nov. 1, 1973, through July 1, 1976, above the maximum levels permitted by the provisions of 10 CFR 212.93.)	FEE-4350	Price exception (sec. 212.93).
Do	Industrial Fuel Oils, Inc., Fort Wayne, Indiana. (If granted: The remedial order issued by FEA region V on May 17, 1977 would be rescinded and Industrial Fuel Oils, Inc. would not be required to refund overcharges made in its sales of covered products.)	FRA-1358 FRS-1358	Appeal of the remedial order issued by FEA region V on May 17, 1977.
Do	Lampton-Love, Inc., Washington, D.C. (If granted: Lampton-Love, Inc. would be permitted to retroactively establish its prices for sales of propane above the maximum levels permitted by the provisions of 10 CFR 212.93.)	FEE-4351	Price exception (sec. 212.93).
Do	J. C. and J.H. McClure d.b.a. McClure Oil Co.; McClure Butane, et al., Konawa, Okla. (If granted; The remedial order issued by FEA region VI on June 2, 1977 would be rescinded and J. C. and J. H. McClure would not be required to refund overcharges made in sales of propane, motor gasoline and No. 2 diesel fuel.)	FRA-1359 FRS-1359	Appeal of the remedial order issued by FEA region VI on June 2, 1977.
Do	r.v. Whitmer Thermogas Co., Inc., Akron, Ohio. (If granted: The FEA's Apr. 29, 1977 decision and order would be rescinded and r.v. Whitmer Thermogas Co., Inc. would be permitted to retroactively and prospectively increase the prices on its sales of propane above the maximum levels permitted by the provisions of 10 CFR 212.93.)	FXA-1360	Appeal of the decision and order in r.v. Whitmer Thermogas Co., 5 FEA par. ..... (Apr. 29, 1977).
June 20, 1977	Doric Petroleum, Inc., Washington, D.C. (If granted: Doric Petroleum, Inc. would receive an extension of the exception relief granted in the FEA's Jan. 25, 1977 decision and order which permitted the firm to increase its prices to reflect nonproduct cost increases in excess of $.005/gal for natural gas liquids produced at its Enid processing plant.)	FXE-4353	Extension of the relief granted in Doric Petroleum, Inc., 5 FEA par. 83,048 (Jan. 25, 1977).
June 21, 1977	City of Richmond, Va.; Department of Public Utilities, Richmond, Va. (If granted: The Department of Public Utilities of the City of Richmond, Va., would be permitted to receive additional allocations of propane for use as propane-air feedstock in its Richmond, Va. propane-air plant for peak shaving purposes.)	FEE-4362	Allocation exception.

Date	Name and location of applicant	Case No.	Type of submission
Do	Eason Oil Co., Oklahoma City, Okla. (If granted: Eason Oil Co. would receive an extension of the exception relief granted in the FEA's Dec. 3, 1976 decision and order which permitted the firm to increase its prices to reflect nonproduct cost increases in excess of $.005/gal for natural gas liquid products produced at its Crescent plant.	FXE-4356	Extension of the relief granted to Eason Oil Co., 4 FEA par. 83,215 (Dec. 3, 1976).
Do	Eddy Refining Co., Houston, Tex. (If granted: Eddy Refining Co. would receive an exception from the refiner's price rule requiring the sequential method of recovering increased nonproduct costs.)	FEE-4364	Price exception (sec. 212.83).
Do	Florida Hydrocarbons Co., Winter Park, Fla. (If granted: Florida Hydrocarbons Co. would be permitted to increase its prices to reflect nonproduct cost increases in excess of $.005/gal for natural gas liquid products produced at its Brooker plant.)	FEE-4363	Price exception (sec. 212.165).
Do	Jay Oil Co., Fort Smith, Ark. (If granted: Jay Oil Co. would receive a stay of the refund requirements stated in a remedial order issued by FEA region VI on May 6, 1977 pending a determination on its appeal of that order.)	FRS-0097	Stay of the remedial order issued by FEA region VI on May 6, 1977.
Do	William C. Kirkwood, Casper ,Wyo., (If granted: Crude oil produced from the Dubois Federal Lease No. W-0317694, Cowley Field Dalton No. 1 Lease, Justice Field Rudnik No. 4 Lease and Justice Field Rudnik No. 32-27 Lease would be sold at upper tier ceiling prices on a retroactive basis.)	FEE-4358—FEE-4361	Price exception (sec. 212.73).
Do	Midland Cooperatives, Inc., Washington, D.C. (If granted: The FEA's Nov. 5, 1976 decision and order would be rescinded and Midland Cooperatives, Inc. would not be required to purchase additional entitlements during the period November 1976 through October 1977.)	FXA-1362	Appeal of the decision and order in in Midland Cooperatives, Inc., 4 FEA par. 87,024 (Nov. 5, 1976).
Do	Monsanto Co., St. Louis, Mo. (If granted: Monsanto Co. would receive an exception from the refiners' price rule requiring the sequential method of recovering increased nonproduct costs.)	FEE-4354	Price exception (sec. 212.83).
Do	National Oil Recovery Corp., Bayonne, N.J. (If granted: Texaco would be required to supply National Oil Recovery Corp. with Miranda crude oil.)	FSG-0060	Request for special redress.
Do	Robert W. O'Meara New Orleans, La. (If granted; Robert W. O'Meara would receive an extension of the exception relief granted in the FEA's Jan. 14, 1977 decision and order and would be permitted to sell crude oil produced from the Louisiana Fruit No. 2 well, located in the Tiger Pass field of Plaquemines Parish, La. at upper tier ceiling prices for an additional period of time.)	FXE-4355	Extension of the relief granted in Robert W. O'Meara, 5 FEA par. 83,042 (Jan. 14, 1977).
Do	Petroleum Management, Inc., Wichita, Kans. (If granted: The FEA's May 31, 1977 decision and order would be modified to eliminate the requirement that an escrow account be established.)	FMR-0112	Modification of the FEA's decision and order in Petroleum Management, Inc., 5 FEA par. ..... (May 31, 1977).
Do	S&W Engine Supply Co. Oklahoma City, Okla. (If granted: S&W Engine Supply Co.'s Baker-Townsend Lease in Oklahoma County, Okla. would be classified as a stripper well property.)	FEE-4357	Price exception (sec. 212.73).
Do	LaVerne and Phyllis Vanderwork, Towner, Colo. (If granted: The FEA's May 27, 1977 decision and order would be rescinded and L. G. Vanderwork would not be required to make refunds for alleged overcharges made in sales of propane and would be permitted to establish selling prices for propane which are above the maximum level permitted under the mandatory petroleum price regulations).	FXA-1363	Appeal of the decision and order in L. G. Vanderwork, 5 FEA par. ..... (May 27, 1977).
Do	W. E. Riley Oil Co., Petersburg, Va. (If granted: The remedial order issued by FEA region III on May 9, 1977 would be rescinded and W. E. Riley Oil Co. would not be required to refund overcharges made in its sales of motor gasoline and middle distillates.)	FRA-1364 FRS-1364	Appeal of the remedial order issued by FEA region III on May 9, 1977.
Do	Washington News Service, Inc., Kensington, Md. (If granted: The FEA's May 31, 1977 information request denial would be rescinded and the Washington News Service, Inc. would receive access to the names and complete mailing addresses of recipients of several FEA publications.)	FFA-1361	Appeal of the FEA information request denial.
June 22, 1977	Hocker Oil Co., Salem, Mo. (If granted: The FEA's May 16, 1977 decision and order would be rescinded, Hocker Oil Co. would receive an increase in its base period use of motor gasoline and suppliers would be assigned to furnish the increased quantities of motor gasoline.)	FXA-1367	Appeal of the decision and order in Hocker Oil Co., 5 FEA par. ..... (May 16, 1977).

Date	Name and location of applicant	Case No.	Type of submission
Do	George A. Hoffman, Henderson, Ky. (If granted: The remedial order issued by FEA region IV, on June 7, 1977, would be rescinded and Mr. Hoffman would not be required to refund overcharges made in sales of crude oil produced from Bohnhoff Lease.)	FRA-1366	Appeal of the remedial order issued by FEA region IV on June 7, 1977.
Do	Karchmer Pipe and Supply Co., Centralia, Ill. (If granted: The FEA's Feb. 22, 1977 decision and order would be rescinded and Karchmer Pipe & Supply Co. would not be required to refund revenues which may have been realized as a result of charging excessive prices for crude oil produced from the Dakota Unit No. 1. Also the Patoka Unit No. 1 located on the Wasem Lease in Marion County, Ill. would be classified as a stripper well property.)	FXA-1365	Appeal of the decision and order in Karchmer Pipe & Supply Co., 5 FEA par. 83,075 (Feb. 22, 1977).
Do	Sabine Production Co. Dallas, Tex. (If granted: The FEA's Apr. 7, 1977 decision and order would be modified to permit both the working and royalty interest owners of the Perry Sound waterflood unit north segment, Yazoo County, Miss., to sell the crude oil produced at upper tier ceiling prices.)	FXA-1368	Appeal of the FEA's decision and order in Pennzoil Producing Co., Inc., 5 FEA par. 83,122 (Apr. 7, 1977).
Do	Texaco, Inc., New York, N.Y. (If granted: The FEA's May 17, 1977 assignment order would be rescinded and Texaco, Inc. would not be required to supply Southwest Airlines with aviation turbine fuel.)	FEA-1369	Appeal of the FEA's May 17, 1977 assignment order.
June 23, 1977	Allied Chemical Corp. (Union Texas Petroleum), Houston, Tex. (If granted: Union Texas Petroleum Division of Allied Chemical Corp. would receive an exception from the refiners' price rule requiring the sequential method of recovering increased non-product costs.)	FEE-4366	Price exception (sec. 212.83).
Do	Diversified Chemicals & Propellants Co., Oak Brook, Ill. (If granted: The Interpretation issued by FEA region V on Feb. 20, 1977 would be rescinded and sales of aerosol grade propellants by Diversified Chemicals & Propellants Co., would not be subject to the mandatory petroleum price regulations.)	FIA-1370	Appeal of the interpretation issued by FEA region V on Feb. 20, 1977.
Do	Hanson Oil Co., Roswell, N. Mex. (If granted: Hanson Oil Co. would receive an exception from the base production control level established for an oil lease in Washakie County, Wyo.)	FEE-4365	Price exception (sec. 212.73).
Do	J. H. Buhrmaster Co., Inc., Scotia, N.Y. (If granted: J. H. Buhrmaster Co., Inc. would not be required to file form FEA-P131-S-1.)	FEE-4367	Exception to the reporting requirements.
Do	Sentry Refining, Inc., St. Mary's, W. Va. (If granted: The FEA's May 24, 1977 allocation order would be rescinded and Sentry Refining, Inc. would receive an adjustment to its crude oil allocation under the buy/sell program.)	FEA-1371	Appeal of the FEA's May 24, 1977 allocation order.

[FR Doc.77-19530 Filed 7-8-77;8:45 am]

ISSUANCE OF DECISIONS AND ORDERS BY THE OFFICE OF EXCEPTIONS AND APPEALS

Week of May 23 Through May 27, 1977

Notice is hereby given that during the week of May 23 through May 27, 1977, the Decisions and Orders summarized below were issued with respect to Appeals and Applications for Exception or other relief filed with the Office of Exceptions and Appeals of the Federal Energy Administration. The following summary also contains a list of submissions which were dismissed by the Office of Exceptions and Appeals and the basis for the dismissal.

APPEALS

Alpine Butane Co., Inc., Houston, Texas; FRA-1207; Propane; Propane-Mix

Alpine Butane Co., Inc. appealed from a Remedial Order which the Deputy Regional Administrator of FEA Region VI issued to it on January 21, 1977. In the Remedial Order, the FEA Regional Office found that Alpine charged prices for propane and propane-butane mix which exceeded the firm's maximum permissible price levels determined in accordance with the provisions of 10 CFR 212.93. In considering the Alpine Appeal, the FEA found that there was considerable merit to Alpine's assertion that the Remedial Order was defective because it did not include specific findings of fact to support the determination reached. In particular, the FEA held that the Order should have contained explicit factual findings with regard to the classes of purchaser which Alpine serves, the maximum legal selling prices for each of the classes of purchaser during the period covered by the Remedial Order, the quality of the propane which Alpine sold to the various purchasers involved in the compliance proceeding, and the disallowance of certain transportation costs from the computation of Alpine's allowable increased costs under the provisions of Section 212.92. The FEA further found that it was not possible to determine from the Remedial Order whether Alpine was correct in asserting that the FEA had used weighted average selling prices instead of actual selling prices in arriving at the conclusion that the firm had violated the provisions of Section 212.93. In view of these deficiencies in the Remedial Order, the FEA determined that the Appeal should be granted and the Remedial Order should be remanded to the Regional Administrator of FEA Region VI for further review. However, the FEA rejected Alpine's claim that the Remedial Order improperly applied the provisions of Section 212.93(e) to the firm on a retroactive basis. In this regard, the FEA determined that an amendment to that Section which was issued on September 1 did not change those provisions but only clarified them. In addition, the FEA rejected Alpine's contention that the FEA lacks authority to require a firm to refund overcharges and to pay interest on the overcharges.

Berry Holding Co., Fresno, Calif.; FXA-1149; Crude Oil

Berry Holding Company appealed from a Decision and Order which the FEA issued to it on October 26, 1976. Berry Holding Co., 4 FEA Par 83,167 (October 26, 1976). In that determination, the FEA denied an Application for Exception which the firm had submitted from the provisions of 10 CFR, Part 212, Subpart D. The approval of the Berry exception request would have permitted the firm to retain approximately $7 million in revenues which it realized during 1975 by charging prices for crude oil that were in excess of the levels permitted under 10 CFR 212.73. The FEA held in the October 26, 1976 Decision that there was no reasonable basis upon which Berry could have construed Section 210.32 of the FEA Regulations as permitting it to consider any well that produces crude oil for only a portion of the measurement year to have produced crude oil for the entire year for purposes of determining whether the property qualified for stripper well status in 1975. In its Appeal, Berry contended that compelling reasons existed which warranted the approval of retroactive exception relief. The firm asserted that during 1974 it became committed to an extensive crude oil drilling and exploration program in reliance on the cash flow that the two properties involved in the proceeding would generate as stripper well leases in 1975. In considering the Appeal, the FEA found that the legislative history of the Emergency Petroleum Allocation Act of 1973, as amended, clearly indicates that Congress intended that the stripper well exemption should be strictly interpreted so as to preclude a firm from manipulating the exemption and obtaining a benefit which the Congress never intended to confer. The FEA concluded that the position taken in Ruling 1975-12 which states that "average daily production" must be computed so as to recognize the fact that a well may have not been operating as a producing well for the entire measurement period simply clarifies the meaning of the term by interpreting it in light of the underlying Congressional intent. The FEA therefore rejected Berry's assertion that the Ruling involves a retroactive modification of the FEA Regulations and sustained the conclusion reached in the October 26, 1976 Decision that Berry's interpretation of the term "average daily production" and its reliance on that interpretation were unreasonable. The FEA also concluded that Berry had failed to establish that its drilling and exploration program would be seriously imperiled in the absence of relief. In this regard, the FEA held that a mere showing by a firm that it would be able to invest additional funds and earn greater profits if it were permitted to retain the funds it had improperly received from violating FEA regulatory requirements did not form a proper basis for the approval of exception relief. The FEA therefore concluded that Berry had failed to establish that the October 26 Decision and Order was erroneous in fact or law or was arbitrary or capricious and the firm's Appeal was accordingly denied.

City of Long Beach, California, Long Beach, Calif.; FXA-1105; Crude Oil.

The City of Long Beach, California, appealed from a Decision and Order which the FEA issued to it on December 3, 1976. City of Long Beach, California, 4 FEA Par. 83,212 (December 3, 1976). In that determination, the FEA approved exception relief from the provisions of 10 CFR, Part 212, Subpart D, and permitted Long Beach to sell 18.0791 percent of the crude oil which it produces from Fault Block Unit 2 of the western half of the Wilmington Field at the upper tier ceiling price. The Appeal, if granted, would permit Long Beach to sell a greater percentage of the crude oil produced from Unit 2 at the upper tier ceiling price. In considering the Appeal, the FEA noted that subsequent to the issuance of the December 3, 1976 exception Decision, the upper tier ceiling price for the Unit 2 crude oil was reduced from $10.36 to $9.71 per barrel. Based upon previous FEA decisions involving similar factual circumstances, the FEA held that the change in the upper tier ceiling price constituted significantly changed circumstances which effectively prevented Long Beach from receiving the full measure of exception relief which the FEA intended to provide in the December 3, 1976 Decision. The FEA therefore permitted the City to sell additional quantities of crude oil produced from Unit 2 at the upper tier ceiling price.

In considering the Appeal, the FEA also determined that Long Beach had failed to notify the FEA during the pendency of the exception proceeding that the purchasers of Unit 2 crude oil were not paying the full lower tier ceiling price for old crude oil produced from Unit 2. Consequently, it was not erroneous for the FEA to have used the lower tier ceiling price rather than the market price which the purchasers of Unit 2 crude oil were actually paying in calculating the amount of exception relief approved in the December 3 Decision and Order. However, in view of this new factual information the FEA determined that additional exception relief should be granted to the City on a prospective basis.

Duke Oil Company, Inc., Mineral Va.; FRA-1111; Refined Petroleum Products

Duke Oil Company, Inc. appealed from a Remedial Order which had been issued to it by the FEA Region III on December 23, 1976. In the Remedial Order the FEA found that during the period December 3, 1974 through April 21, 1975, Duke had sold covered products at prices which were in excess of the maximum levels permitted by 10 CFR 212.93. Since Duke had failed to maintain adequate records of its business operations, the FEA could not make a precise determination as to the firm's compliance with FEA Regulations on the basis of those records and had been compelled to adopt certain assumptions regarding Duke's classes of purchaser and costs. In considering the firm's Appeal, the FEA determined that contrary to Duke's claims the types of assumptions which the FEA was required to adopt during the course of the compliance proceeding were not arbitrary. The FEA observed in this regard that at no time had Duke advanced a factual challenge to any specific assumption or finding made by the FEA despite the opportunities which the firm had to do so. In addition, the FEA found that Duke had failed to make a *prima facie* showing that it would incur a serious financial hardship if it were required to refund the overcharges specified in the Remedial Order. The Duke Appeal was accordingly denied.

Gulf Oil Corporation; Tulsa, Okla.; FXA-1190, Motor Gasoline

Gulf Oil Corporation appealed from a Decision and Order which the FTA issued to Mid-Michigan Truck Service, Inc. on January 6, 1977. Mid-Michigan Truck Service, Inc., 5 FEA Par. 87,003 (January 6, 1977). In that Order the FEA approved an extension of the exception relief which it had initially granted on February 13, 1976. Mid-Michigan Truck Service, Inc., 3 FEA Par. 83,100 (February 13, 1976), modified, Mid-Michigan Truck Service, Inc., 3 FEA Par. 83,197 (May 20, 1976). In the February 13 determination, the FEA directed Gulf to cease supplying Mid-Michigan with motor gasoline through a substitute supplier and to begin supplying Mid-Michigan directly. The May 20, 1976 Supplemental Order required Gulf to calculate the terms and conditions of its sale of motor gasoline to Mid-Michigan by using the actual selling price and credit terms which were in effect on May 15, 1973 between Gulf and Mid-Michigan In considering the Appeal, the FEA found that all of the issues raised by Gulf had previously been considered and rejected in a Decision and Order which had been issued with regard to Gulf's Appeal of a related determination. Gulf Oil Corp., 5 FEA Par. 80,598 (April 11, 1977). Since Gulf advanced no new arguments in support of its present Appeal, the FEA held that the previous determination was controlling. Gulf's Appeal was accordingly denied.

John B. Walker Texaco, Inc.; Jackson, Miss.; FXA-1256; Diesel Fuel

John B. Walker Texaco, Inc. (Walker) appealed from a Decision and Order which the FEA issued on March 11, 1977. John B. Walker Texaco, Inc., 5 FEA Par. 83,092 (March 11, 1977). In the March 11 determination, the FEA denied a request for exception which would have permitted Walker to retain $17,728 in revenues which it received as a result of selling diesel fuel at prices which exceed the maximum levels specified in the FEA Regulations. In considering the Walker Appeal the FEA observed that Walker would have achieved a higher level of profitability in its 1974 fiscal year than it realized in each of the two preceding fiscal years even if it had complied with the FEA Regulations. The FEA held that in view of that situation no showing had been made that a serious hardship exists in this matter. Finally, the FEA determined that Walker had failed to show, either in its initial exception application or in its Appeal, that it would experience a severe and irreparable injury in the absence of retroactive relief. The FEA therefore denied the Walker Appeal.

Kewanee Oil Co.; Tulsa, Okla.; FXA-1237, Crude oil

Kewanee Oil Company appealed from a Decision and Order which the FEA issued to it denying the firm's Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. Kewanee Oil Co., 5 FEA Par. 83,069 (February 18, 1977). The Kewanee Appeal, if granted, would have resulted in the rescission of the February 18 Decision and Order and the issuance of an Order permitting the firm to charge upper tier ceiling prices for a portion of the crude oil which it produces from the North Stanley Field located in Osage County, Oklahoma. In the Appeal Kewanee contended that it should have been permitted to sell at upper tier price levels a quantity of crude oil which is equivalent to the amount it would have been able to sell at comparable levels prior to regulatory changes which became effective on February 1, 1976. In reviewing the Kewanee submission, the FEA determined that the firm had failed to show that it did not have a substantial economic incentive under current regulations to continue its polymer injection operations at the Field or that it was affected in a unique or disproportionate manner by the FEA Price Regulations. The FEA noted that Kewanee's contention that its profits had been reduced as a result of changes in the FEA regulatory program does not provide a sufficient basis for the approval of exception relief. Finally, the FEA rejected Kewanee's assertion that the denial of exception relief in this case would discourage it and other firms from making similar investments in enhanced recovery projects in the future. The FEA pointed out that exception relief may be granted where a producer demonstrates that, unless it is permitted to charge prices in excess of lower tier levels, it will lack an economic incentive to make a proposed investment which would increase crude oil production. On the basis of these considerations, the Kewanee Appeal was denied.

Pawnee Petroleum Co.; Seminole, Okla.; FXA-1254; Crude Oil

Pawnee Petroleum Company appealed from a Decision and Order issued to it by the FEA on March 4, 1977. Pawnee Petroleum Co., 5 FEA Par. 83,087 (March 4, 1977). In that Order the FEA denied the portion of Pawnee's Application for Exception in which the firm requested prospective and retroactive exception relief which would have permitted it to treat its Strothers #C Well, Logan Lease and Riley #1 Well as stripper well properties. In considering the Appeal, the FEA rejected Pawnee's contention that it was unreasonable to require it to comply with the provisions of Ruling 1975-12. That Ruling sets forth the criteria that must be satisfied in order for a well to be regarded as a multiple completion well for purposes of determining whether a property qualifies as a stripper well property. The FEA noted that, since Ruling 1975-12 increased rather than reduced the number of wells that would qualify as stripper wells, its retroactive application did not in any way adversely affect Pawnee. The FEA further found that Pawnee had failed to substantiate its assertion that the Oklahoma Corporation Commission (OCC) had treated each of the wells involved in this case as two or more wells. Moreover, the FEA stated that, even if this assertion were correct, the OCC determination would not, by itself, constitute a sufficient reason for a firm to conclude that its well should be considered as two or more wells for the purposes of the FEA regulatory program. Finally, the FEA found that Pawnee had not provided any material in support of its claim that it had sought clarification of the meaning of the term "well" from the Cost of Living Council and was instructed to refer to the rules and regulations of the State of Oklahoma. In view of these considerations, the FEA determined that Pawnee's Appeal should be denied.

Skelly Oil Co.; Tulsa, Okla.; FRA-1098, Motor Gasoline

Skelly Oil Company filed an Appeal from a Remedial Order which the Regional Administrator of FEA Region VI issued to the firm on December 6, 1976. In the Remedial Order, the FEA found that Skelly markets two brands of leaded gasoline, regular and Skeltane, at the nearest octane number to its unleaded gasoline. The Remedial Order further found that Skelly determined its imputed May 15, 1973 price for unleaded motor gasoline solely on the basis of its May 15, 1973 selling price for its regular brand motor gasoline without regard to the lower price which it was charg-

ing for its Skeltane brand. On the basis of those findings, the Remedial Order concluded that Skelly had been charging prices for unleaded motor gasoline which exceeded the maximum price levels permissible under the provisions of 10 CFR 212.112. In order to rectify the violation which was found to exist, the Remedial Order directed Skelly to establish an imputed May 15, 1973 price for unleaded gasoline by calculating a weighted average price in all sales of the two brands of leaded gasoline at the nearest octane number to unleaded gasoline. The Remedial Order further directed Skelly to establish its classes of purchaser for unleaded gasoline based on the criteria which distinguish leaded gasoline classes of purchaser with the exception of brand and grade distinctions.

In considering the Skelly Appeal, the FEA held that in order to correctly formulate classes of purchaser in accordance with the principles enumerated in Ruling 1975-2 a firm must apply the illustrative factors discussed in the Ruling sequentially, by first applying the factor that makes the broadest or most basic differentiation among purchasers and applying the remaining factors in order to achieve a finer discrimination among the purchasers involved. In the context of the Skelly Appeal, the FEA determined that price distinctions based on differences in quality are so basic that those differences must provide the initial class of purchaser differentiation. Consequently, the FEA held that Skelly must first select the particular quality of leaded gasoline of the same or nearest octane number which is most similar to the quality of the unleaded gasoline which it is now offering for sale and then apply the other relevant factors within that particular quality of leaded gasoline in order to identify the particular class of purchaser that is most similar to the class of purchaser to which unleaded gasoline is being sold. The FEA further stated that Skelly must then utilize the maximum lawful price at which leaded gasoline was priced in transactions with the particular class of purchaser on May 15, 1973 to determine its maximum lawful price for the most similar class of purchaser to which unleaded gasoline is presently being sold. Since the approach which the Regional Administrator adopted in the December 6 Remedial Order differed in a number of significant respects from these principles, the FEA concluded that the Remedial Order should be rescinded and the matter remanded to the Regional Administrator for further proceedings.

Zenith Oil Company, Inc., Minneapolis, Minn.; FEA-1047; No. 2 Heating Oil

Zenith Oil Company, Inc., appealed from a Remedial Order which FEA Region V issued to it on October 28, 1976. In the Remedial Order, Region V determined that Zenith sold No. 2 heating oil to certain customers at prices in excess of those permitted under 6 CFR 150.359 and 10 CFR 212.93. In order to remedy the violations, Zenith was directed to refund the overcharges to the customers which were overcharged. In its Appeal, Zenith contended that it was prejudiced in its attempts to comply with the FEA Price Regulations because it did not possess a copy of those regulations. The FEA found this claim to be without merit since the FEA Regulations are public documents and Zenith, like all firms dealing in petroleum-related activities, has an affirmative obligation to be cognizant of and to conform its business operations to the requirements set forth in the FEA Regulations. See Carlos R. Leffler, Inc., 2 FEA Par. 80,640 (July 18, 1975). In addition, the FEA found that Zenith's May 15, 1973 cost of No. 2 heating oil was correctly calculated and that no transportation costs were improperly included in the calculation from which the violation was determined. Zenith also contended that in the Remedial Order the FEA excluded certain allowable nonproduct cost increases in calculating the firm's maximum permissible selling prices. Although this particular argument was rejected, the FEA did find that the Remedial Order was defective because it neglected to set forth Zenith's maximum permissible prices which had been used in calculating the amount of the pricing violations. In the absence of this information, Zenith was unable to fully verify the accuracy of the FEA's findings with respect to its overcharges. See Koch Industries, Inc., 2 FEA Par. 80,580 (May 2, 1975). Accordingly, the Remedial Order was remanded to FEA Region V for further findings of fact with respect to this issue. Zenith also claimed that its sales of No. 2 heating oil to the customers identified in the Remedial Order constituted sales to a "new market" and that its maximum permissible prices should therefore have been determined in accordance with 10 CFR 212.111(b)(3). This contention was rejected because Zenith failed to show that any of the sales in question were in fact made to a new market. Zenith also claimed that the Remedial Order erroneously based the calculation of its maximum permissible selling price for No. 2 heating oil to the end-user class of purchaser on a February 15, 1973 sale when in fact the firm made another sale to the same class of purchaser on May 3, 1973. See 10 CFR 212.93 (d). The FEA concluded that there was insufficient information presented in the Remedial Order to evaluate this claim, and that further and more specific findings should be made with respect to this issue in the revised Remedial Order which Region V issues. Finally, in view of the fact that Zenith had submitted evidence indicating that its financial condition was precarious, the FEA concluded that the firm might well be unable to make the refunds specified in the Remedial Order within the 210-day period provided. Accordingly, it was determined that any revised Remedial Order which is issued in this matter should provide for a method of restitution over a period of time which is not less than two years.

REQUESTS FOR EXCEPTION

Boise Aviation Fuel Co.; Boise, Idaho; Fee-3738; Aviation Fuels

The Boise Aviation Fuel Company (BAFCO) filed an Application for Exception from the provisions of 10 CFR 212.93. The exception request, if granted, would permit BAFCO to increase its selling prices for aviation fuels by 4.2 cents per gallon and to retroactively increase its prices to recover non-product costs which the firm was unable to reflect in its selling prices in the period subsequent to November 1, 1973. In considering BAFCO's request for prospective exception relief, the FEA determined that BAFCO is presently incurring increased non-product costs which are 3.3 cents per gallon above the level of non-product costs which the firm is permitted to reflect in its selling prices. The FEA also found that BAFCO's present financial condition will be seriously affected if it is required to absorb these non-product cost increases on a continuing basis. Therefore, based upon previous FEA decisions involving similar factual circumstances, the FEA concluded that the application of Section 212.93 to BAFCO results in that firm bearing an unfair distribution of the burdens resulting from the nation's energy problems which constitutes a gross inequity warranting exception relief. Accordingly, exception relief was approved which permits BAFCO to increase its selling prices for aviation fuels to reflect the 3.3 cents per gallon of increased non-product costs. With respect to the firm's request for retroactive relief, the FEA determined that since the firm was unable to specify the potential refund obligation to which it would be subject, it was not possible to evaluate BAFCO's claim that it will experience an irreparable injury in the absence of retroactive exception relief. The FEA therefore concluded that the request for retroactive exception relief should be dismissed without prejudice to a resubmission if a Remedial Order is issued in this matter.

Cleary Petroleum Corp.; Oklahoma City, Okla.; FEE-4042; Crude Oil

Cleary Petroleum Corporation filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D, which, if granted, would have permitted the firm to sell the crude oil produced from the J. A. Little "A" lease (the Little "A" lease) at upper tier ceiling prices. In considering the exception application, the FEA determined that the costs of producing crude oil from the Little "A" lease have increased significantly since May 1973 and, as a result of these costs, Cleary's production costs now exceed the price which the firm is permitted to charge for the crude oil which it produces. Consequently, the FEA concluded that Cleary does not have an economic incentive to continue to operate the Little "A" lease. On the basis of previous precedents involving similar factual situations, the FEA concluded that the application of the lower tier ceiling price rule resulted in a gross inequity to Cleary. Accordingly, Cleary was granted exception relief which permits it to sell at upper tier ceiling prices 89.77 percent of the crude oil produced and sold for the benefit of the working interest owners from the Little "A" lease.

Edwin L. Cox; Dallas, Tex.; FEE-4014; Crude Oil

Edwin L. Cox (Cox) filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D, which, if granted, would have permitted the firm to sell the crude oil produced from its Seward LeJeune Lease at prices which are in excess of the lower tier ceiling price specified in 10 CFR 212.73. According to the Cox submission, in the absence of exception relief the firm would not have sufficient economic incentive to undertake capital investment projects which were necessary to continue its crude oil operations at the Lease. In considering Cox's Application, the FEA determined that a substantial amount of crude oil could be recovered from the Unit if the investments necessary to continue crude oil extraction operations were made. The FEA also determined, however, that if the firm were to sell the crude oil involved at the price levels specified in the FEA Regulations the firm would realize a negative rate of return on its capital investments. On the basis of previous precedents involving similar factual circumstances, the FEA concluded that exception relief should be granted to provide Cox with a sufficient economic incentive to make the necessary investments while at the same time avoiding the possibility that windfall profits would be obtained as a result of the exception relief. Exception relief was therefore approved which permits the firm to sell at upper tier ceiling prices a portion of the crude oil produced from the Lease for the benefit of the working interest owners during the period 1977 through 1979.

Robert E. Davis; Great Bend, Kans.; FEE-4072; Crude Oil

Robert E. Davis (Davis) filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The request, if granted, would result in a determination that the Gartung lease was a stripper well property during the period November 1973 through December 1974 and would thereby relieve Davis of any obligation to refund revenues which he may have realized as a

result of charging excessive prices for crude oil during that period. In his exception application, Davis contended that the Gartung lease would have been classified as a stripper well property during the period if the lease's Well No. 3, which produces crude oil from two separate reservoirs, were regarded as two separate wells. In considering the exception request, the FEA noted that pursuant to Ruling 1975–12, a well may be regarded as two wells for the purpose of calculating the average daily production pursuant to the stripper well lease exemption only if the well contains two or more tubing strings, each of which carries crude oil from a separate and distinct producing formation, and the production capabilities of each formation are not affected by any change in the production level of any other formation producing through the same well. Since Davis' Well No. 3 did not meet these tests, the FEA concluded that Well No. 3 did not qualify as a multiple completion well under Ruling 1975–12. The FEA further noted that the fact that the Corporation Commission of the State of Kansas permitted Davis to commingle the crude oil which was produced from the two reservoirs does not constitute a sufficient reason for Davis to conclude that Well No. 3 should be considered as two wells for the purpose of the FEA regulatory program. The FEA therefore concluded that Davis had failed to establish that retroactive exception relief should be approved, and his exception request was accordingly denied.

Louisiana Land and Exploration Co.; New Orleans, La.; FEE–3595; Crude Oil

The Louisiana Land and Exploration Company (LL&E) filed an Application for Exception from the provisions of 10 CFR 211.63(b)(1) which, if granted, would extend the exception relief which the FEA had approved in four previous Decisions and Orders. In those Decisions the FEA permitted LL&E to retain for its own use up to 32,719 barrels per day (bpd) of crude oil produced from the Jay-Little Escambia Creek Field in northwestern Florida and relieved the firm of its obligation under 10 CFR 211.63(b)(1) to sell any of that crude oil to the Exxon Company, U.S.A. This relief was designed to make available to LL&E a quantity of Jay Field crude oil which is sufficient to enable it to continue operating its newly constructed refinery in Mobile, Alabama at a level equal to the supply-to-capacity ratio for domestic refiners in 1972. On the basis of financial and operating data which LL&E submitted in support of its present exception request, the FEA determined that the conditions which prevailed at the time the earlier Decisions and Orders were issued continue to exist. Accordingly, an extension of exception relief was approved. However, since LL&E has recently acquired access to an additional quantity of feedstock which is suitable for processing at its Mobile refinery, the measure of the exception relief which was approved was reduced to account for that new supply. Finally, the FEA found that the same factual circumstances on which previous approvals of exception relief to LL&E were based were likely to persist for the foreseeable future, and the exception relief which was approved was therefore extended on a permanent basis. As a condition of the continuation of exception relief, LL&E was directed to notify the FEA Office of Exceptions and Appeals if the factual circumstances on which the grant of exception relief was based are substantially altered in the future.

Marathon Oil Co.; Findlay, Ohio; FEE–3563
Mid-Continent, Inc.; West Memphis, Ark.; FEE–3564
Hamilton Oil Co.; Memphis, Tenn.; FEE–3565
Publix Oil Co.; Morristown, Tenn.; FEE–3567
Ingram Corp.; New Orleans, La.; FEE–3566; Unleaded Gasoline

Mid-Continent, Inc., Hamilton Oil Company, Publix Oil Company, Inc., Ingram Corporation (the applicants), and Marathon Oil Company filed Applications for Exception from the provisions of 10 CFR 211.9. The exception requests, if granted, would result in the assignment of Marathon as a base period supplier of unleaded gasoline to Mid-Continent, Hamilton, Publix and Ingram. Marathon would also be required to supply those firms with the volumes of unleaded gasoline which they contracted to purchase from the Energy Corporation fo Louisiana (ECOL) prior to the sale of ECOL's refinery to Marathon in September 1976. In considering the exception applications, the FEA found that the applicants had failed to take prudent and timely measures to protect their interests by filing Applications for Exception prior to undertaking capital investments which were contingent upon their receipt of the supplies of unleaded gasoline specified in those contracts. Nevertheless, the FEA found that the applicants had assisted ECOL in obtaining the financial support necessary for the construction of a new refinery and had thereby promoted important national policy objectives. The FEA also found that, if exception relief were not granted to Mid-Continent, Hamilton and Publix, those firms would experience significant losses on the capital investments which they made in anticipation of receiving supplies of unleaded gasoline from ECOL. Moreover, no evidence had been presented which indicated that any party would be adversely affected to a significant degree by the approval of the relief sought by the three firms. The FEA therefore concluded that exception relief should be granted assigning Marathan as a base period supplier to Mid-Continent, Hamilton and Publix for the volumes of unleaded gasoline which they contracted to purchase from ECOL. However, Ingram's exception request was denied because that firm, as a parent corporation of ECOL, was a party to the sale of the ECOL refinery to Marathon in September 1976 and did realize substantial economic benefits from that transaction. The FEA found that those benefits far outweighed any inconvenience which Ingram would experience if it were unable to obtain an assured supply of unleaded gasoline from the Marathon facility.

New England Power Co.; Westborough, Mass.; FEE–4146; Montaup Electric Co.; Somerset, Mass.; FEE–4148; Coal Conversion

The New England Power Company (NEP) and the Montaup Electric Company filed Applications for Exception which, if granted, would extend the period of time within which the firms could submit written comments with respect to certain Notices of Intent (NOI's) issued by the Federal Energy Administration pursuant to the Energy Supply and Environmental Coordination Act of 1974 (ESECA). In the NOI's, the FEA announced its intention to issue Prohibition Orders to various power plants owned by NEP and Montaup which would prohibit those power plants from burning natural gas or petroleum as their primary energy source. In their Applications for Exception, NEP and Montaup claimed that they would be unable to complete their analyses of the proposed findings set forth in the NOI's prior to the May 30, 1977 deadline for the submission of written comments and they requested that the comment period by extended to June 15, 1977. In considering the Applications for Exception, the FEA found that the legislative history accompanying ESECA confirmed that Congress wished to avoid extensive evidentiary hearings in which each party subject to a proposed Prohibition Order would be entitled to discovery procedures as well as cross-examination with respect to the findings which the FEA is required to make under Section 2 of ESCEA. The FEA further found that the firms had not demonstrated that material which had recently been released to them was indispensable to their preparation of responses to the NOI's since the firms had sufficient prior notice of the type of information necessary to dispute the proposed findings which were contained in the NOI's. Finally, the FEA determined that there was no material in the record which would substantiate a claim that the May 30 deadline imposed a greater burden on NEP or Montaup than on any other firm similarly affected by the NOI's. Based on these considerations, the FEA concluded that the Applications for Exception should be denied.

UCO Oil Co.; Whittier, Calif.; FXE–4111; Motor Gasoline

On June 11, 1976, October 15, 1976, and February 17, 1977, the FEA issued Decisions and Orders to the UCO Oil Company granting the firm an exception from the provisions of 10 CFR 211.9. UCO Oil Co., 5 FEA Par. 83,072 (February 17, 1977); UCO Oil Co., 4 FEA Par. 83,155 (October 15, 1976); and UCO Oil Co., 3 FEA Par. 83,219 (June 11, 1975). In each of those Decisions, the FEA determined that UCO was experiencing a serious financial hardship as a result of the prices which its principal base period suppliers, the TOSCO Corporation and the Macmillan Ring-Free Oil Company, Inc., were charging for motor gasoline. In order to alleviate the hardship which UCO was experiencing, each of those Orders directed the Regional Administrator of FEA Region IX to assign to UCO for a period of three months, a supplier or suppliers whose wholesale price for motor gasoline was within the range of prices charged by major suppliers in UCO's marketing area. In its present Application, UCO requested an extension of the exception relief previously granted. In considering the UCO Application, the FEA determined that UCO's financial position had improved substantially when compared to the financial results which the firm was experiencing during earlier periods and that the firm was no longer experiencing operating losses. Under the circumstances, the FEA concluded that no basis existed for an extension of exception relief which would confer special benefits on UCO and impose substantial burdens on other firms in UCO's market area. Accordingly, the UCO exception application was denied.

I. G. Vanderwork; Towner, Colo.; FEE–3457; Propane

I. G. Vanderwork filed an Application for Exception from the provisions of 10 CFR 212.93 which, if granted, would permit Vanderwork to increase its prices for propane above the maximum permissible levels computed pursuant to Section 212.93. Vanderwork also requested retroactive exception relief to November 1973 which would relieve the firm of any obligation to refund revenues which it previously obtained by charging unlawful prices for propane. In considering the request for prospective relief, the FEA noted that during the pendency of Vanderwork's Application amendments to the provisions of Section 212.93 had been promulgated which permit resellers such as Vanderwork the option of increasing their prices for propane on a monthly basis to reflect the actual non-product cost increases incurred. Consequently, as of May 1977, Vanderwork may choose to adjust its prices for propane to reflect actual non-product costs. In view of

this development, the firm's application for exception relief to pass on increased nonproduct costs appeared to be unnecessary and was dismissed. In considering Vanderwork's request for retroactive relief, the FEA determined that the firm's assertions that it might be adversely affected by a denial of retroactive relief were premature for consideration since the firm was not yet able to specify the exact amount of the potential refund obligation to which it would be subject. The FEA stated that an argument based on speculative future hardship does not form a basis for the approval of exception relief and therefore denied this portion of Vanderwork's request.

PETITION FOR SPECIAL REDRESS

Gulf Oil Corp.; Tulsa, Okla.; FSG-0035; Motor Gasoline

Gulf Oil Corporation filed a Petition for Special Redress in which it requested that an Assignment Order issued by the FEA Region VI on July 14, 1976 directing Gulf to supply motor gasoline to Bay-Tex Terminal, Ltd. be rescinded. In its Petition, Gulf contended that the statement of fact and law set forth in the Assignment Order was insufficient as a matter of law. Gulf also argued that Region VI's refusal to permit the firm to examine the files relating to the Bay-Tex Application for Assignment deprived Gulf of a meaningful opportunity to comment on the July 14, 1976 Assignment Order prior to its issuance. In considering the firm's Petition, the FEA found that the July 14 Assignment Order failed to make certain factual determinations which the Regional Office was required to make, while other determinations were stated in a conclusory manner which gave no indication of the information on which they were based. The FEA therefore remanded the Assignment Order to the Region VI Office for further findings of fact and conclusions of law. Finally, the FEA found that the information contained in the files which Gulf had requested was proprietary information which was properly withheld from Gulf by the Region VI Office and which could not be released under a protective order. See Standard Oil Co. (Indiana), 5 FEA Par. 80,553 (January 17, 1977).

REQUESTS FOR STAY

Adams Oil Co., Inc.; Dillwyn, Va.; FRS-1267; Motor Gasoline; No. 2-D; Diesel Fuel; No. 2 Fuel Oil; Kerosene

Adams Oil Company, Inc. requested that a Remedial Order which the Director of Compliance of FEA Region III issued to the firm on April 4, 1977 be stayed pending a final determination of the firm's Appeal. In the Remedial Order the FEA found that Adams had sold motor gasoline, No. 2 fuel oil, No. 2-D diesel fuel and kerosene during the period November 1, 1973 through July 31, 1975 at prices that were in excess of the firm's maximum permissible selling prices. On the basis of these findings the Remedial Order directed Adams to refund the overcharges which it had obtained. In considering the firm's request for stay, the FEA determined that the firm had satisfied the standards for the approval of a stay set forth in General Crude Oil Co., 3 FEA Par. 85,040 (June 25, 1976). The FEA found that Adams had shown that it would raise significant arguments concerning the FEA's calculations of the firm's alleged overcharges and had also demonstrated that it would encounter an undue burden in recovering the refunds specified in the Remedial Order if it were ultimately successful on the merits of its Appeal. The FEA therefore concluded that the refund requirements should be stayed. The FEA also found that the firm's financial condition would not permit it to place the full amount of the disputed funds into an escrow account and remain a viable business venture. Consequently, the FEA required Adams to place one-third of the overcharges calculated in the Remedial Order into an escrow account as a condition of the stay.

C. C. Operating Co.; Victoria, TX.; FRS-1274; Crude oil

The C. C. Operating Company (C. C.) requested that a Remedial Order which the Deputy Regional Administrator of FEA Region VI issued to the firm on April 14, 1977 be stayed pending a final determination on the firm's Appeal of the Remedial Order. In the Remedial Order, the Deputy Regional Administrator determined that C. C. had sold crude oil at price levels that were in excess of the ceiling prices for crude oil specified in 10 CFR 212.73. In order to remedy the violation cited, C. C. was directed to refund to the purchaser of the crude oil approximately $38,000 in overcharges which it had improperly obtained from sales of crude oil during the relevant periods. In considering the request for stay, the FEA found that C. C. had failed to address any of the criteria set forth in Section 205.125(b), which establishes the grounds for granting a stay and that the allegations which it made in its Application for stay did not relate to those criteria. In view of those determinations, the firms' stay request was denied.

Florida Gas Exploration Co.; Winter Park, Fla.; FRS-1329; Crude Oil

Florida Gas Exploration Company requested that the provisions of a Remedial Order which the FEA issued to the firm on April 19, 1977 be stayed pending a final determination of its Appeal from that Order. In the Remedial Order, the FEA found that Florida Gas had sold crude oil produced from the Discorbis 15 Unit to the Kerr-McGee Oil Company at prices which exceeded maximum lawful levels. The Remedial Order also found that Florida Gas had overcharged Shell Oil Company in sales of crude oil produced from the Unknown Pass Field. On the basis of these findings, Florida Gas was directed to refund the overcharges plus interest. In considering the request for stay, the FEA found that Florida Gas could experience an irreparable injury in the event that it is required to make refunds since Kerr-McGee and Shell would in all likelihood pass through the refunds to their own customers, and Florida Gas could therefore experience considerable difficulty in recovering the funds in the event that it prevails on the merits of it Appeal. Furthermore, the FEA found that Florida Gas had raised significant substantive issues in its Appeal. Consequently, the FEA determined that a stay of the Remedial Order was warranted on the condition that Florida Gas place the full amount of the disputed funds into an escrow account pending a final determination of its Appeal.

Jay Oil Co.; Fort Smith, Ark.; FRS-1330; Refined Petroleum Products

The Jay Oil Company requested that a Remedial Order which the Director of Compliance of FEA Region VI issued to the firm on May 6, 1977 be stayed pending a final determination of the firm's Appeal of the Remedial Order. In the Remedial Order, the Director of Compliance determined that Jay had sold motor gasoline and diesel fuel to its customers at price levels which were in excess of the maximum permissible levels for the products specified in 10 CFR 212.93. On the basis of those findings, Jay was directed to refund to its customers approximately $150,000 in overcharges. In considering the request for stay, the FEA determined that Jay had failed to satisfy the criteria for a stay of the refund requirements of a Remedial Order set forth in General Crude Oil Co., 3 FEA Par. 85,040 (June 25, 1976). The FEA found that Jay had failed to raise sufficient questions concerning the propriety of the Remedial Order to warrant a stay under the General Crude standards. In addition, the FEA determinde that Jay had failed to substantiate its claims that it would be imposaible for the firm to comply with the refund requirements of the Remedial Order within the time limitations specified or that the denial of its stay request would result in a more serious hardship and inequity to Jay than to any other affected party. The Application for Stay was therefore denied.

Kern County Refinery, Inc.; Bakersfield, Calif.; FRS-1331; Crude Oil

Kern County Refinery, Inc. filed an Application for Stay of the provisions of 10 CFR 211.67 (the Entitlements Program) which, if granted, would suspend Kern's obligation to purchase 248,066 entitlements specified in the Entitlement Notice which the FEA published in the month of May 1977 pending a determination of the firm's Appeal. In considering Kern's request, the FEA observed that in a Decision and Order issued on December 15, 1976, the FEA granted an exception to Kern that relieved the firm of any obligation to purchase entitlements during the period December 1976 through May 1977. Kern County Refinery, Inc., 4 FEA Par. 83,246 (December 15, 1976). However, as a result of an administrative error by the FEA Office of Regulatory Programs, Kern was listed on that Entitlement Notice as a net purchaser of entitlements. Under these circumstances, the FEA concluded that Kern's obligation to purchase 248,066 entitlements should be stayed pending further order.

Kaye J. Maupin d.b.a. Maupin Retail Sales; Eaton Rapids, Mich.; FRS-1320; Propane

Kaye J. Maupin d.b.a. Maupin Retail Sales filed an Application for Stay of a Remedial Order which the FEA Region V issued to it on May 2, 1977. In the Remedial Order, the FEA determined that Maupin had sold propane at prices that were in excess of the levels permitted under the provisions of Section 212.93. On the basis of this determination, the Remedial Order directed Maupin to refund the overcharges plus interest. In considering Maupin's stay request, the FEA determined that the firm had satisfied the criteria for the approval of stay set forth in General Crude Oil Co., 3 FEA Par. 85,040 (June 25, 1976) by showing that it would raise substantial issues in its Appeal and that it could encounter an undue burden in recovering the refunds required by the Remedial Order if it ultimately succeeded on the merits of its Appeal. The Application for Stay was therefore approved. However, the FEA also determined that the firm's financial condition would not permit it to place the amount of the refunds required by the Remedial Order into an escrow account. The FEA observed that the establishment of an escrow account would affect the firm more severely than the actual implementation of the Remedial Order. Consequently, the FEA concluded that an escrow account should not be required as a condition of the stay.

Shell Oil Co.; Houston, Tex.; FRS-1319; Petroleum Products

Shell Oil Company filed an Application for Stay of the requirements of a Remedial Order which was issued to the firm by the Deputy Regional Administrator of FEA Region VI on April 26, 1977. The Remedial Order directed Shell to make refunds to its dealers and either to reinstate the Master Charge credit plan which it utilized on May 15, 1973 or reduce its selling prices

by an amount which reflects the savings to the firm resulting from the discontinuance of the use of the credit card. The amount of refunds which were to be made was not specified, but Shell was directed to secure data from its dealers and to develop further material which would enable it to calculate the amount involved. In its Application Shell requested a stay of the provisions of the Remedial Order which require the firm to make reimbursements to its dealers. In considering the Application the FEA noted that Shell had raised substantial questions of law concerning the propriety of the Remedial Order. Furthermore, Shell had convincingly demonstrated that it could incur an irreparable injury if it were successful on the merits of its Appeal of the Remedial Order. Under these circumstances, the FEA concluded that the refund requirements of the Remedial Order should be stayed during the pendency of the Appeal proceedings. In addition, the FEA concluded that Shell should not be required to establish an escrow account in this matter since the FEA could not determine the amount that should be set aside and Shell's ability to make timely disbursements of the refunds required by the Remedial Order would not be impaired by the approval of a stay.

Suburban Propane Gas Corp.; Whippany, N.J.; FRS–1314; Crude Oil

Suburban Propane Gas Corporation requested that a Remedial Order that the Deputy Regional Administrator of FEA Region VI issued to the firm on April 25, 1977 be stayed pending a final determination of the firm's Appeal. On the basis of findings that Suburban had erroneously classified a certain property as a stripper well lease from November 1973 through December 1974 and had improperly sold the crude oil from this property at exempt price levels, the Remedial Order directed Suburban to refund the revenues which it had derived from charging unlawfully high prices. In considering Suburban's stay request, the FEA determined that the firm had satisfied the criteria for the approval of a stay set forth in *General Crude Oil Co.*, 3 FEA Par. 85,040 (June 25, 1976), by showing that it would raise substantial issues in its Appeal and that it could encounter an undue burden in recovering the refunds required by the Remedial Order if it ultimately succeeded on the merits of its Appeal. Consequently, in accordance with previous Decisions, a stay was granted on the condition that the contested funds be placed in an appropriate escrow account.

Sunland Refining Corp.; Los Angeles, Calif.; FES–0094; Crude Oil

Sunland Refining Corporation filed an Application for Stay of a Decision and Order which the FEA issued to the firm on May 13, 1977. *Sunland Refining Corp.*, 5 FEA Par. ---- (May 13, 1977). The May 13 Decision and Order directed the firm to purchase entitlements equal in value to $798,180 during the month of May 1977 in order to return entitlements revenues which Sunland erroneously received during the month of March 1977. In its Application for Stay, Sunland asserted that it received insufficient exception relief benefits from the provisions of the Entitlements Program during 1976 and accordingly would be entitled to receive additional exception relief from the FEA for its 1976 fiscal year. According to Sunland the value of this additional relief would exceed the $798,180 entitlement purchase obligation specified in the May 13 Decision and Order. Sunland therefore requested that the FEA stay the firm's $798,180 entitlement purchase obligation until such time as it is granted the additional exception relief for its 1976 fiscal year. In considering Sunland's Application, the FEA determined that the firm failed to satisfy any of the criteria for the approval of a stay set forth in 10 CFR 205.125(b). In addition, the FEA emphasized that the year-end review of entitlements exception relief and the obligations of a firm regarding the month-to-month operation of the Entitlements Program are separate and distinct. The FEA noted that Sunland was unjustly enriched by the $798,180 which it erroneously received in March 1977 at the expense of other participants in the Entitlements Program and concluded that, regardless of the ultimate outcome of the review of exception relief granted to the firm in 1976, the public policy considerations involved in this case lead to the conclusion that Sunland should not be permitted to retain those funds. Accordingly, Sunland's Application for Stay was denied.

SUPPLEMENTAL ORDER

Texas Asphalt & Refining Co., Houston, Tex.; FEX–015.; Crude and Unfinished Oils

On April 8, 1977 the Federal Energy Administration issued a consolidated Decision and Order to Texas Asphalt & Refining Company (TARCO) and two other firms. In that Decision exception relief was approved which permitted TARCO to obtain a fee-free allocation under 10 CFR 213.12 for the 1977–78 allocation period. *Algonquin Gas Transmission Co.; Texas Asphalt & Refining Co.; Time Oil Co.*; 5 FEA Par. ---- (April 8, 1977). The April 8 Decision and Order further provided that exception relief would not be available if TARCO were already eligible for a fee-exempt allocation for the 1977–78 allocation period under Part 213. Subsequent to the issuance of that Decision, TARCO notified the FEA that due to a projected increase in its inputs the firm will apparently qualify for an allocation during the 1977–78 period under 10 CFR 213.29 based on expanded refinery capacity, and that TARCO would therefore be disqualified from receiving the exception relief provided in the April 8 Decision and Order. However, the provision which disqualifies TARCO was only intended to ensure that the firm would not receive more than one allocation during the 1978–79 allocation period which was based on the same inputs to the Fort Worth refinery. The FEA therefore modified the terms of the exception relief provided in the April 8 Order and permitted TARCO to receive a fee-free allocation for expanded refinery capacity.

REQUESTS FOR EXCEPTION RECEIVED FROM NATURAL GAS PROCESSORS

The Office of Exceptions and Appeals of the Federal Energy Administration has issued Decisions and Orders granting exception relief from the provisions of 10 CFR 212.165 to the natural gas processors listed below. The exceptions granted permit the firms involved to increase the prices of the production of the gas plants listed below to reflect certain non-product cost increases:

Company	Case No.	Plant	Amount of price increase (dollars per gallon)
Farmland Industries, Inc	FXE–4067	Gillette	$0.0349
	FXE–4068	Lamont	.0086
	FXE–4069	Mertzon	.0335
	FXE–4070	Quitman	.0174
Gary Operating Co	FXE–4065	Bluebell	.0784
Locust Ridge Gas Processing Co	FEE–4039	Locust Ridge	.03109
Marathon Oil Co	FEE–3956	Indian Basin	.0082
	FEE–3958	Markham	.0074
	FEE–3959	Rock River	.1490
	FEE–3960	Scipio	.0152
	FEE–3961	South Colea Levee	.0393
	FEE–3963	Welder	.0741
	FEE–3964	West Forelands	.07115
	FEE–3965	West Sidney	.0454
Ozona Gas Processing Plant	FEE–4029	Ozona	.0133
Phillips Petroleum Co	FEE–4025	Goldsmith	.0062
	FEE–4026	Lusk	.0071
Placid Oil Co	FEE–4001	Black Lake	.0057
	FEE–4002	Calumet	.0098
	FEE–4003	Lapeyrouse	.0128
	FEE–4004	Lake Washington	.0237
	FEE–4005	Lirette	.0072
	FEE–4006	Patterson	.0138
	FEE–4007	Prentice	.0300
	FEE–4008	Promix	.0071
	FEE–4009	Womack Hill	.0063
	FEE–4010	Ycloskey	(1)
Sid Richardson Carbon & Gasoline Co	FXE–4129	Keystone	.0216

[1] Denied.

DISMISSALS

The following submissions were dismissed following a statement by the applicant indicating that the relief requested was no longer needed:

B & K Oil Co., Piedmont, Mo., FEE–4142.
Daleco Resources, Beverly Hills, Calif., FEE–4048.

The following submissions were dismissed on the grounds that the requests are now moot:

Montaup Electric Co., Washington, D.C., FES–4148.
Skelly Oil Co., Tulso, Okla., FES–0079.

The following submissions were dismissed on the grounds that alternative regulatory procedures existed under which relief might be obtained:

O. B. McFarland, McAlester, Okla., FEE–4106.
Standard Oil Co. (Indiana), Chicago, Ill., FSG–0045.

SUMMARY DECISION

The FEA issued a summary decision which extended the time in which the following firm is required to file certain data pursuant to an April 25, 1977 Decision and Order:

Gary Western Co., Englewood, Colo., FEX–0160.

Copies of the full text of these Decisions and Orders are available in the Public Docket Room of the Office of

Private Grievances and Redress, Room B-120, 2000 M Street, N.W., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., e.d.t., except Federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

ERIC J. FYGI,
Acting General Counsel.

JULY 1, 1977.

[FR Doc.77-19531 Filed 7-8-77;8:45 am]

FEDERAL POWER COMMISSION

[Docket Nos. RP77-65, RP77-66, etc.]

ALABAMA-TENNESSEE NATURAL GAS CO., ET AL.

Hearing Dates

JUNE 28, 1977.

Alabama-Tennessee Natural Gas Company, RP77-65; Algonquin Gas Transmission Company, RP77-66; Arkansas-Louisiana Gas Company, RP77-67; Cities Service Gas Company, RP77-68; Colorado Interstate Gas Company, RP77-69; Columbia Gas Transmission Corporation, RP77-70; Consolidated Gas Supply Corporation, RP77-71; East Tennessee Natural Gas Company, RP77-72; Eastern Shore Natural Gas Company, RP77-73; El Paso Natural Gas Company, RP77-74; Equitable Gas Company, RP 77-75; Florida Gas Transmission Company, RP77-76; Michigan-Wisconsin Pipe Line Company, RP77-77; Midwestern Gas Transmission Company, RP77-78; Mississippi River Transmission Company, RP77-79; National Fuel Gas Supply Corporation, RP77-80; Natural Gas Pipeline Company of America, RP77-81; Northern Natural Gas Company, RP77-82; Northwest Pipeline Corporation, RP77-83; Panhandle Eastern Pipe Line Company, RP77-84; Southern Natural Gas Company, RP77-85; Tennessee Gas Pipeline Company, RP77-86; Tennessee Natural Gas Lines, Inc., RP77-87; Texas Gas Transmission Corporation, RP77-88; Transcontinental Gas Pipe Line Corporation, RP77-89; Transwestern Pipeline Company, RP77-90; Trunkline Gas Company, RP77-91; United Gas Pipe Line Company, RP77-92; Texas Eastern Transmission Corporation, RP77-93.

Pursuant to the directives prescribed in the Commission's order issued on May 11, 1977, in the above-styled proceedings, the following dates will be fixed for the purpose of convening formal hearings with respect to the following pipeline companies as provided for in the latter order:

Company	Docket Nos.	Dates
Transcontinental Gas Pipe Line Corp.[1]	RP77-89	July 18
Eastern Shore Natural Gas Co.[1]	RP77-73	Do.
United Gas Pipe Line Co.	RP77-92	July 7
Southern Natural Gas Co.	RP77-85	July 11
Columbia Gas Transmission	RP77-70	July 14
National Fuel Gas Supply Corp.[1]	RP77-80	July 19
Equitable Gas Co.[1]	RP77-75	Do.
Tennessee Gas Pipe Line Co.[1]	RP77-86	July 21
East Tennessee Natural Gas Co.	RP77-72	Do.
Alabama-Tennessee Natural Gas Co.	RP77-65	Do.
Tennessee Natural Gas Lines, Inc.	RP77-87	Do.

[1] 3 joint hearings will be held in the indicated dockets. The Transcontinental and Eastern Shore proceedings will convene as one hearing on July 18. Subsequently, National Fuel Gas and Equitable will convene on July 19. Similarly, Tennessee Gas and its listed customers will appear on July 21.

It is anticipated that each of these proceedings will, similarly to those conducted in the past, be concluded after one full day of hearing. The basic data needed to provide impact evaluation will be obtained from the witnesses sponsored by the designated jurisdictional pipeline companies noted in this Notice. It would seem that there would be little need for testimony from customers of the jurisdictional pipelines if the latter adequately complied with the requirements of our May 11, 1977, order in these proceedings.

Formal hearings will not be convened for any of the other pipelines that where designated in the above-styled proceedings.

The aforementioned formal hearings scheduled herein will be held in a hearing room of the Federal Power Commission, 825 North Capital Street, N.E., Washington, D.C. 20426 at 10:00 a.m. (EDT) on the dates indicated above.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-19457 Filed 7-8-77;8:45 am]

[Docket No. E-7671]

BLANDIN POWER CO.

Order Amending Order Approving Settlement

JULY 5, 1977.

On June 23, 1977, the Commission issued an order approving a settlement of payments for headwater benefits due the United States, certified to the Commission by the Presiding Administrative Law Judge on July 19, 1976, and incorporating that settlement by reference.

The settlement provided for the payment of specific amounts by the parties to this proceeding for headwater benefits during the period 1925 through 1965. The settlement also provided, as was pointed out by Commissioner Smith in his dissent, for payments for the years 1966 through 1975 under calculations to be made pursuant to Paragraph 3 of the offer of settlement.

The Commission has, on its own motion reconsidered its order of June 23, 1977, in this proceeding and has decided to condition its approval of the settlement proposal by limiting it to the years 1925 through 1965, as contained in Paragraphs 1 and 2 of section II of the proposed agreement. While the settlement for past periods represented an equitable apportionment of the headwater benefits given the procedural posture and other circumstances of the case, that reasoning does not apply to periods after 1965. Acceptance of a dollar settlement should not be precedential for determining the methodology for calculating headwater benefits for later periods or for other proceedings. Consequently, our order of June 23, 1977, is not binding as to computation of future payments for headwater benefits in this or any other proceeding.

The Commission orders: (A) Ordering Paragraph (A) of the order of June 23, 1977, in this proceeding is amended to read as follows:

"(A) The proposed settlement of payments for headwater benefits due the United States, certified to this Commission by the Presiding Administrative Law Judge on July 19, 1976, is incorporated herein by reference, approved and made effective, except insofar as it would apply to payments for the years 1966 and thereafter. Payments for headwater benefits for the years 1966 and thereafter by the parties to this proceeding are expressly reserved for future determination by the Commission."

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.19679 Filed 7-8-77;8:45 am]

[Docket No. E-9593]

CENTRAL POWER & LIGHT CO., ET AL.

Order Denying Emergency Petition and Granting Interventions

JULY 5, 1977.

On April 27, 1977, Central Power and Light Company (CP&L), Public Service Company of Oklahoma (PSO), Southwestern Electric Power Company (SWEPCO), and West Texas Utilities Company (WTU) (collectively referred to hereinafter as the C&SW companies) submitted for filing an "Emergency Petition * * * for Proceedings and Joint Hearings Pursuant to Sections 307 and 209(b) of the Federal Power Act." In the petition, the C&SW companies request that the Commission initiate a proceeding to conduct joint hearings with the Public Utility Commission of Texas (Texas PUC) concerning the question of intrastate and/or interstate service of Texas interconnected public utility systems. The C&SW companies allege that petitions for hearing on this question were filed with the Texas PUC by Houston Lighting and Power Company

(HL&P),[1] Dallas Power & Light Company (DP&L), Texas Electric Service Company (TESCO) and Texas Power & Light Company (TP&L) on January 7, 1977.

Notice of the emergency petition of the C&SW companies was issued on May 13, 1977, with protests due on May 27, 1977. Timely petitions to intervene were filed by HL&P (on April 29, 1977),[2] Community Public Service Company (on May 23, 1977), the Committee on Power for the Southwest, Inc. (on May 27, 1977), the Corporation Commission of the State of Oklahoma (on May 27, 1977), the Oklahoma Association of Electric Cooperatives (on May 27, 1977), and DP&L, TESCO, and TP&L (on May 27, 1977).[3] A late petition to intervene was filed on June 21, 1977 by Concho Valley Electric Cooperative, Inc., Dickens County Electric Cooperative, Inc., Gate City Electric Cooperative, Inc., Hall County Electric Cooperative, Inc., Southwest Texas Electric Cooperative, Inc., and Stamford Electric Cooperative, Inc. All of these petitioners have demonstrated a substantial interest in this proceeding.

The C&SW companies allege that the purpose of requesting the hearing before the Texas PUC by HL&P, DP&L, TESCO, and TP&L was to force the C&SW companies "to drop any transmission of electricity across state lines." It is further alleged that HL&P, DP&L, TESCO, and TP&L have "steadfastly refused to reconnect" with two of the C&SW companies, West Texas Utilities and Central Power and Light, despite the Federal Power Commission's order in Docket No. E-9558, issued July 21, 1976, in which those utilities were granted the opportunity to reconnect voluntarily without being subjected to FPC jurisdiction. According to the C&SW companies' petition, since the Texas PUC has been asked to hold a hearing which will involve a determination of the reliability of the interconnected utility system affecting the state of Texas, and since the FPC's July 21, 1976, Order called for a study involving a similar question, this Commission should initiate a joint hearing with the Texas PUC to avoid duplication of proceedings.

We shall interpret the petition of the C&SW companies as presenting alternative requests: the initiation of joint hearings with the Texas PUC or the initiation of a separate hearing by this Commission relating to the same issue as is before the Texas PUC. For reasons set forth in the following paragraphs, we shall deny the petition and decline to initiate either alternative.

Joint hearing with the Texas PUC. A hearing before the Texas PUC on this issue commenced on May 2, 1977.[4] The emergency petition was filed with this Commission on April 27, 1977. This Commission was not provided with timely notice to be able to issue an oder relating to the petition prior to the commencement of the hearing before the Texas PUC. Moreover, the response of the C&SW companies to the petition before the Texas PUC included a request for the Texas PUC to convene joint hearings with the Federal Power Commission. The Texas PUC did not act on that request, apparently failing to see the necessity for joint deliberations. Consequently, it would be clearly inappropriate to initiate joint hearings at this late date, and we will not do so.

Hearing before the Federal Power Commission. A request for a hearing before this Commission on the issue in question is premature for two reasons. First, our July 21, 1976, order in Docket No. E-9558 denied an investigation and a hearing on this issue but ordered a Staff study to update a 1972 Staff report entitled "Study of Proposed Interconnection Between Electric Reliability Council of Texas and Southwest Power Pool." Since the study has not been completed, it would serve no useful purpose to set the matter of reliability of electric interconnections for hearing.

Second, the C&SW companies have appealed the July 21, 1976, order to the United States Court of Appeals for the District of Columbia Circuit.[5] Rather than hazard a guess as to the opinion of the Circuit Court concerning that order, we prefer to adhere to our findings and decisions pending the determination of the appellate court. Therefore, we shall deny the request for a hearing of the C&SW companies.

The Commission finds: (1) Good cause exists to accept the petitions to intervene of Houston Light and Power Company, Community Public Service Company, the Committee on Power for the Southwest, Inc., the Corporation Commission of the State of Oklahoma, the Oklahoma Association of Electric Cooperatives, Dallas Power and Light Company, Texas Electric Service Company, Texas Power and Light Company, Concho Valley Electric Cooperative, Inc. Dickens County Electric Cooperative, Inc., Gate City Electric Cooperative, Inc., Hall County Electric Cooperative, Inc., Southwest Texas Electric Cooperative, Inc., and Stamford Electric Cooperative, Inc., as it may be in the public interest.

(2) Good cause does not exist to grant the emergency petition of Central Power and Light Company, Public Service Company of Oklahoma, Southwestern Electric Power Company, and West Texas Utilities Company (the C&SW companies).

The Commission orders: (A) The petitions to intervene of Houston Power and Light Company, Community Public Service Company, the Committee on Power for the Southwest, Inc., the Corporation Commission of the State of Oklahoma, the Oklahoma Association of Electric Cooperatives, Dallas Power and Light Company, Texas Electric Service Company, Texas Power and Light Company, Concho Valley Electric Cooperative, Inc., Dickens County Electric Cooperative, Inc., Gate City Electric Cooperative, Inc., Hall County Electric Cooperative, Inc., Southwest Texas Electric Cooperative, Inc., and Stamford Electric Cooperative, Inc. are hereby granted: *Provided, however,* That such intervention is limited to the issues set forth in the petitions to intervene; and *Provided, further,* That the admission of the intervenors shall not be construed as recognition by the Commission that they might be aggrieved because of any Commission order entered in this proceeding.

(B) The emergency petition of the Central and Southwest Companies which requests a joint hearing with the Public Utility Commission of Texas, or, in the alternative, a hearing by this Commission, is hereby denied.

(C) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-19677 Filed 7-8-77;8:45 am]

[Docket No. E-8947]

DELMARVA POWER & LIGHT CO.

Order Approving Settlement

JULY 1, 1977.

On February 16, 1977, the Presiding Administrative Law Judge in these proceedings certified to the Commission the proposed Settlement Agreement and the hearing record. The Commission finds that the Settlement Agreement is in the public interest and accepts and approves it as hereinafter ordered and conditioned.

These proceedings were initiated on August 1, 1974 when Delmarva Power and Light Company (Delmarva) and its

[1] The HL&P petition is entitled "Petition Requesting an Order (a) Convening a Hearing and Compelling West Texas Utilities Company (WTU) and Central Power and Light Company (CPL) To Appear and Show Cause Why Their Actions of May 3-4, 1976, and the Action of August 28, 1976, in Commencing Synchronous Operation With the Southwest Power Pool and Their Breach of the Participation Agreement Relating to the South Texas Project Do Not Violate the Public Utility Regulatory Act and (b) Ordering WTU and CPL, Pending the Completion of Such Hearing, To Cease and Desist the Implementation of any Plans for Generation or Transmission Facility Construction That Would Have an Adverse Impact, From Either an Economic or Electric Reliability Standpoint, on Other Utilities in Texas."

[2] A response to the emergency petition was included in the HL&P petition to intervene.

[3] DP&L, TESCO and TP&L filed an answer in addition to a petition to intervene on the same date.

[4] The Texas Commission issued an interim order on May 2, 1977, and a final order on June 2, 1977, which ordered CP&L and WTU to disconnect its ties with the interstate non-Texas components of the C&SW system and to connect with the former members of the intrastate Texas Interconnected System. The C&SW companies have filed an appeal of both orders in Federal district court for the western district of Texas and in the district court of Travis County, Texas.

[5] Nos. 76-1995, 76-2012.

Maryland and Virginia affiliates[1] tendered for filing a rate increase of about $4 million for the Period II 12-month test period ending September 30, 1975 applicable to various municipal, private, and cooperative utility customers. By order issued on October 24, 1974, the Commission suspended the proposed increase for one day, with an effective date of October 26, 1974, subject to refund.

Hearings were held and the initial and reply briefing was completed in February, 1976. On March 1, 1976, the Commission permitted Delmarva to amend its filing to include a fuel adjustment clause filed by stipulation to conform to Section 35.14 of the Commission's Regulations (18 CFR 35.14) as amended by Commission Order No. 517. Delmarva's filing in compliance with Order No. 517 enabled it to complement changes in its recovery of fuel related expenses.

By subsequent separate orders issued July 26, 1976, the Commission re-opened the record to include price squeeze as an issue,[2] and also an issue involving the settlement and cancellation of Delmarva's contract for the construction of the Summit Nuclear Power Station.

As a result of a settlement conference held on November 3, 1976,[3] an agreement was reached. Public notice of the proposed settlement and the Presiding Administrative Law Judge's certification to the Commission was issued on March 1, 1977. Both the customers and Staff filed comments in support of the agreement. No other comments were received.

Under the proposed agreement, the rate increase would be reduced to approximately $1,723,000 based on the actual test year data. The Company would refund excess revenues collected between October 26, 1974 and March 31, 1976[4] at the rate of 9% per annum; the fuel clause accepted by the March 1, 1976 Commission order in this docket would be included; and the price squeeze and Summit Nuclear Power Station issues would be resolved. Staff's analysis indicates that the settlement rates do not produce an earned return in excess of Staff's recommended rate of return of 8.94 percent which includes 12.50 percent on common equity.

The Commission finds: The proposed Settlement Agreement should be approved and made effective as hereinafter ordered and conditioned.

The Commission orders: (A) The Settlement Agreement certified to the Commission in these proceedings on February 16, 1977, is hereby accepted, incorporated herein by reference and approved, subject to the following conditions.

(B) Within 30 days from the date of this order, Delmarva shall file with the Commission revised tariff shets and rate schedules in conformance with the Settlement Agreement.

(C) Within 30 days after the compliance rate filings are accepted for filing, Delmarva shall refund amounts collected in excess of the settlement rates with interest computed at 9% per annum.

(D) Within 15 days after refunds have been made, Delmarva shall file with the Commission a compliance report showing monthly billing determinants and revenues under prior, present and settlement rates; the monthly revenue refund; and the monthly interest computation together with a summary of such information for the total refund period. This report shall include all data for the City of Dover, Delaware. A copy of such report shall also be furnished to each State Commission within whose jurisdiction the wholesale customers distribute and sell electric energy at retail.

(E) This order is without prejudice to any findings or orders which have been made or which will hereafter be made by the Commission, and is without prejudice to any claims or contentions which may be made by the Commission, its Staff, or any party or person affected by this order, in any proceeding now pending or hereafter instituted by or against Delmarva or any person or party.

(F) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-19682 Filed 7-8-77;8:45 am]

[Docket No. ER76-494]

DELMARVA POWER & LIGHT COMPANY AND SUBSIDIARIES

Order Approving Settlement

JULY 1, 1977.

On May 3, 1977, the Presiding Administrative Law Judge in these proceedings certified to the Commission the proposed settlement agreement entered into by Delmarva Power & Light Company (Delmarva) and thirteen of its wholesale customers. The Commission finds that the settlement agreement is in the public interest and accepts and approves it as hereinafter ordered and conditioned.

Proceedings in this docket were initiated on January 30, 1976, when Delmarva tendered for filing proposed rate increases amounting to $4,145,350 (12.8 percent), based on a projected test year ending December 1976. By order issued February 27, 1976, the Commission accepted the filing, suspended it for one month to become effective subject to refund on April 1, 1976, and ordered a revised fuel clause to be filed to comply with Order No. 517.

By order of May 7, 1976, the Commission granted a motion to sever the issue of deferred fuel expense surcharge from the other issues in this docket and to establish an expedited proceeding on the surcharge issue (Phase I). On January 12, 1977, the Presiding Administrative Law Judge issued his Initial Decision disapproving the surcharge provision. On May 20, 1977, the Secretary issued notice of review of this decision.

After several previous attempts at settlement, a conference of all parties was convened on February 2, 1977, which resulted in the proposed settlement agreement. By letter dated April 29, 1977, the Public Service Commission of Maryland indicated that it neither supports nor opposes the agreement, as reviewed by it previously in draft form. Public Notice of the proposed settlement agreement was issued on May 12, 1977. The Commission Staff filed comments in support of the settlement on May 20, 1977. No other comments were received.

The proposed settlement agreement would resolve all issues in this proceeding.[1] The rate increase requested would be reduced to $1,499,524 (4.6 percent), which would not generate an earned rate of return above the rate of return recommended by Staff of 9.23 percent, including 13.25 percent on common equity.

As part of the settlement Delmarva is waiving its right to contest the Initial Decision in Phase I and the proposed surcharge will be removed from the fuel clause. The Initial Decision is consistent with the decision reached by the Commission in Opinion No. 790, *Public Service Company of New Hampshire*, Docket No. ER76-285, issued March 21, 1977. Accordingly, we shall adopt the Initial Decision issued in Phase I of these proceedings.

The Commission finds: The proposed settlement agreement should be approved and made effective as hereinafter ordered and conditioned.

The Commission orders: (A) The settlement agreement certified to the Commission in these proceedings on May 3, 1977, is hereby accepted, incorporated herein by reference and approved, subject to the following conditions.

(B) Within 30 days from the date of this order, Delmarva shall file with the Commission revised tariff sheets and rate schedules in conformance with the settlement agreement.

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[1] Delmarva Power and Light Company of Maryland and Delmarva Power and Light Company of Virginia.

[2] On July 2, 1975, the Commission had deferred action on a motion of the municipal intervenors to include price squeeze as an issue pending final decision by the U.S. Supreme Court in *FPC v. Conway Corporation, et al.*, which was decided on June 7, 1976.

[3] A settlement conference was first held on May 30, 1975 but no agreement was reached at that time.

[4] This "locked in period" ends on March 31, 1976 because another Delmarva rate increase to the same customers became effective subject to refund on April 1, 1976 in Docket No. ER76-494. The City of Dover, Delaware, is to be included in this settlement for the period ending August 31, 1975, after which Dover received no service under Delmarva's firm service tariff.

[1] In Docket No. ER76-871, the Commission accepted Delmarva's Service Agreement with Lincoln and Ellendale Electric Company, subject to refund and subject to the outcome in this proceeding. Acceptance of the proposed agreement would also conclude all aspects of the Docket No. ER76-871 proceeding.

(C) Within 30 days after the compliance rate filings are accepted for filing, Delmarva shall refund amounts collected in excess of the settlement rates with interest computed at 9 percent per annum.

(D) Within 15 days after refunds have been made, Delmarva shall file with the Commission a compliance report showing monthly billing determinants and revenues under prior, present and settlement rates. The report should also show the monthly settlement rate increase, the monthly rate refund, and the monthly interest computation together with a summary of such information for the total refund period (including Lincoln and Ellendale service resulting from the Docket No. ER76-871 proceeding). A copy of such report shall also be furnished to each State Commission within whose jurisdiction the wholesale customers distribute and sell electric energy at retail.

(E) Consistent with the provisions of the settlement agreement approved herein, the Initial Decision in Phase I of this proceeding issued January 12, 1977, is adopted.

(F) This order is without prejudice to any findings or orders which have been made or which will hereafter be made by the Commission, and is without prejudice to any claims or contentions which may be made by the Commission, its staff, or any party or person affected by this order, in any proceeding now pending or hereafter instituted by or against Delmarva or any person or party.

(G) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-19684 Filed 7-8-77;8:45 am]

GAS POLICY ADVISORY COUNCIL

Cancellation of Meeting

Notice is hereby given of the cancellation of the meeting of the Gas Policy Advisory Council Conservation-Technical Advisory Task Force-Efficiency in the Use of Gas of July 14, 1977, which was published in the FEDERAL REGISTER June 6, 1977, 42 FR 28921.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-19554 Filed 7-8-77;8:45 am]

[Docket No. ER77-427]

MINNESOTA POWER AND LIGHT CO.

Order Accepting For Filing and Suspending Proposed Rate Increase Filing, Initiating Hearing and Establishing Procedures

JULY 1, 1977.

Electric rates: (acceptance for Filing, Suspension).

On June 8, 1977, Minnesota Power and Light Company (MPL) submitted for filing a proposed increase in rates to 17 municipalities,[1] two rural electric cooperatives,[2] and its wholly-owned subsidiary Superior Water, Light and Power Company (Superior).[3] MPL also filed for a rate increase for transmission service applicable to its three transmission service customers.[4] The proposed rates would result in increased revenues of approximately $2,451,501 (11.5 percent) based on estimated sales for the year ending July, 1978. MPL has requested the increase be made effective July 8, 1977.

Public notice of the filing was issued on June 24, 1977 with protests or petitions to intervene due on June 29, 1977. No protests or petitions to intervene has been received at the time of this writing. Our review indicates that the proposed increased rates have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory, preferential or otherwise unlawful. Accordingly, the proposed rates shall be suspended for 5 months until December 8, 1977, when they shall go into effect subject to refund.

The Commission finds: (1) Good cause exists to accept for filing the proposed rates and to suspend those rates for five months until December 8, 1977, when they shall become effective subject to refund.

(2) It is necessary and proper in the public interest to aid in the enforcement of the provisions of the Federal Power Act, that the Commission enter upon a hearing to determine the justness and reasonableness of the proposed rates and to establish procedures for that hearing, as hereinafter ordered.

The Commission orders: (A) Pursuant to the authority contained under the Federal Power Act, the Commission's Rules of Practice and Procedure and the Regulations under the Federal Power Act, a public hearing shall be held concerning the justness and reasonableness of the rates, proposed by MPL in this proceeding.

(B) Pending hearing and final decision thereon, MPL's filing for rate increases in Docket No. ER77-427 is hereby accepted for filing and suspended for five months, to become effective December 8, 1977, subject to refund.

(C) The Staff shall prepare and serve top sheets on all parties for settlement purposes on or before October 4, 1977 (see Administrative Order No. 157).

(D) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose (see delegation of Authority, 18 CFR 3.5 (d)), shall preside at an initial conference in this proceeding to be held on October 13, 1977, at 10 A.M., in a hearing room of the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426. Said Law Judge is authorized to establish all procedural dates and to rule upon all motions (except petitions to intervene, motions to consolidate and sever and motions to dismiss), as provided for in the Rules of Practice and Procedure.

(E) Nothing contained herein shall be construed as limiting the rights of parties to this proceeding regarding the convening of conferences or offers of settlement pursuant to Section 1.18 of the Commissions Rules of Practice and Procedure.

(F) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

MINNESOTA POWER AND LIGHT COMPANY
DOCKET NO. ER77-427

Municipal customers:	Rate Schedule FPC No.
City of Biwabik	103
City of Brainerd	96
City of Ely	104
City of Gilbert	106
City of Grand Rapids	100
City of Keewatin	107
City of McKinley	117
City of Mountain Iron	123
City of Nashwauk	116
City of Pierz	98
City of Proctor	115
City of Randall	99
City of Staples	111
City of Aitkin	119
City of Buhl	121
City of Hibbing	105
City of Two Harbors	110

[FR Doc.77-19506 Filed 7-8-77;8:45 am]

[Docket No. ER 76-785]

MONONGAHELA POWER CO.

Order Approving Settlement

JULY 1, 1977.

On May 9, 1977, the Presiding Administrative Law Judge in these proceedings certified to the Commission the proposed settlement agreements together with the record. The Commission finds that the settlement agreements are in the public interest and accepts and approves them as hereinafter ordered and conditioned.

These proceedings were initiated on July 15, 1976 when Monongahela Power Company (Monongahela) tendered for filing a proposed rate increase in FPC Electric Tariff, Original Volume No. 1 amounting to $258,307 for its wholesale customers [1] based on a calendar 1975 test

[1] See attachment.

[2] The rural electric cooperative customers and their respective rate schedules are as follows:
United Power Association, Rate Schedule FPC Nos. 52 & 53.
Stuntz Cooperative Light & Power, Rate Schedule FPC No. 112.

[3] Superior receives service under Rate Schedule FPC No. 118.

[4] The transmission service customers and their respective rate schedules are as follows:
City of Wadena, Rate Schedule FPC No. 120.
United Power Association, Rate Schedule FPC Nos. 29 & 95.
City of Virginia, Rate Schedule FPC No. 102.

[1] Monongahela's wholesale customers under the Tariff are Harrison Rural Electrification Association, Inc.; The City of New Martinsville, West Virginia; and The City of Philippi, West Virginia (the Customers); and Potomac Edison Company (Potomac Edison).

period. By order issued on August 13, 1976, the Commission accepted the proposed rates for filing, suspended them for one month, with an effective date of September 15, 1976, subject to refund.

As a result of a formal settlement conference held on February 25, 1977, two settlement agreements were reached between Monongahela and Potomac Edison and between Monongahela and the Customers. The agreements were filed with the Presiding Administrative Law Judge on May 1, 1977, along with a joint motion for Commission approval. Public notice of the proposed settlement was issued on May 10, 1977. Staff filed comments supporting the agreements. No other comments were received.

Under the proposed settlement, the rate increase would be reduced to $160,000, based on the same test period, to be effective September 15, 1976, in addition to revenues produced by application of charges resulting only to the Cities of Philippi and New Martinsville from implementation of the municipal tax surcharge clause included in the proposed Tariff. The Cities and the Company release each other from any claims for refunds of payment of municipal business and occupation taxes or tax surcharges made to the other before the effective date of the proposed settlement rates. Staff's analysis indicates that the settlement rates do not produce an earned return in excess of Staff's recommended rate of return of 9.20 percent which included 13.00 percent return on common equity.

The Commission finds: The proposed settlement agreement should be approved and made effective as hereinafter ordered and conditioned.

The Commission orders: (A) The settlement agreement certified to the Commission in these proceedings on May 9, 1977, is hereby accepted, incorporated herein by reference and approved, subject to the following conditions.

(B) Within 30 days from the date of this order, Monongahela shall file with the Commission revised tariff sheets in conformance with the settlement agreement.

(C) Within 30 days after the compliance rate filings are accepted for filing, Monongahela shall refund amounts collected in excess of the settlement rates with interest computed at 9 percent per annum.

(D) Within 15 days after refunds have been made, Monongahela shall file with the Commission a compliance report showing monthly billing determinants and revenues under prior, present and settlement rates; the monthly settlement rate increase; the monthly revenue refund; and the monthly interest computation, together with a summary of such information for the total refund period. A copy of such report shall also be furnished to each State Commission within whose jurisdiction the wholesale customers distribute and sell electric energy at retail.

(E) This order is without prejudice to any findings or orders which have been made or which will hereafter be made by the Commission, and is without prejudice to any claims or contentions which may be made by the Commission, its staff, or any party or person affected by this order, in any proceeding now pending or hereafter instituted by or against Monongahela or any person or party.

(F) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-19683 Filed 7-8-77;8:45 am]

[Docket No. ER77-326]

NEW ENGLAND POWER POOL AGREEMENT (NEPOOL)

Order Accepting in Part and Rejecting in Part Proposed Amendment to Power Pool Agreement

JULY 1, 1977.

On April 28, 1977, the NEPOOL Executive Committee tendered for filing an Agreement Amending the NEPOOL Power Pool Agreement (Amendment), dated December 31, 1976,[1] which modifies the provisions of the New England Power Pool Agreement (NEPOOL Agreement), dated September 1, 1971. The proposed Amendment deletes Section 9.5 of the NEPOOL Agreement and suspends Section 9.4(d) of the NEPOOL Agreement during the pendency (and ninety days thereafter) of the appeal taken by the NEPOOL Executive Committee to the United States Court of Appeals for the District of Columbia Circuit from the order of the Commission requiring modification of Section 9.4(d). The NEPOOL Executive Committee requests waiver of the Commission's notice requirements to allow the Amendment to become effective as of February 3, 1977.

Public notice of the filing was issued on May 5, 1977, with comments, protests, or petitions to intervene due on or before May 20, 1977. No responses were received.

For the reasons set out below we shall accept the filing as to Section 9.5 (Section 1, 1.1 of the Amendment) and reject the filing as to Section 9.4(d) (Section 1, 1.2 of the Amendment).

The Amendment was filed by the NEPOOL participant systems pursuant to orders of the Commission issued in Docket No. E-7690 on September 10, 1976 and on November 5, 1976. Commission Opinion No. 775 dated September 10, 1976, found that Sections 9.4(d) and 9.5 of the NEPOOL Agreement are unduly discriminatory and ordered the Executive Committee to file within 60 days an amended NEPOOL Agreement with an appropirate revised Section 9.4(d) and with Section 9.5 deleted. Opinion No. 775-A dated November 5, 1976, extended the time for such filing to 90 days after its date of issue, i.e., to February 3, 1977.

To the extent that the Amendment proposes to delete Section 9.5, it is in compliance with Commission Opinion Nos. 775 and 775-A and, therefore, we will accept the Amendment with respect to that Section.

With respect to Section 9.4(d), the Executive Committee seeks to suspend the operations of that Section pending court review, which, if granted, would constitute a stay of our Opinion Nos. 775 and 775-A requiring modification of Section 9.4(d). Such a stay had previously been denied. Specifically, on December 20, 1976, the Executive Committee petitioned for stay of the Commission's orders requiring modification of Section 9.4(d) pending court review. By order of February 7, 1977, the Commission denied the request for a stay, but allowed a further 120 days for compliance. No new facts or principles of law have been presented in the instant filing to warrant any change or modification of our order of February 7, 1977, and, since the provision pertaining to Section 9.4(d) is contrary to our order, we shall reject it.

Rejection of part of this filing for noncompliance with Commission orders requiring modification does not, however, affect the current suspension of Section 9.4(d). By order of December 24, 1975, in Docket No. ER76-97, the Commission accepted for filing an agreement amending NEPOOL Power Pool Agreement, dated June 1, 1975, which provided for elimination of any charges under Section 9.4(d) of the Power Pool Agreement during the period May 1, 1975, through October 31, 1977. No charges are, therefore, currently collected under Section 9.4(d). The partial rejection of the instant filing is without prejudice to a request for extension of the current suspension period of Section 9.4(d) which will expire by its terms on November 1, 1977.

The Commission finds: (1) Good cause exists to accept for filing NEPOOL's proposed Amendment as it relates to Section 9.5 of the NEPOOL Agreement (Section 1, 1.2 of the Amendment).

(2) Good cause exists to reject NEPOOL's filing as it relates to Section 9.4(d) of the NEPOOL Agreement (Section 1, 1.1 of the Amendment) for not being in compliance with Commission orders.

(3) Good cause exists to waive the notice requirements of the Commission's regulations for the provisions of the Amendment accepted hereby, to permit an effective date of February 3, 1977, as specified in Opinion No. 775-A.

The Commission orders: (A) The proposed Amendment tendered for filing in this docket is hereby accepted with respect to the deletion of Section 9.5 of the NEPOOL Agreement (Section 1, 1.2 of the Amendment) to become effective as of February 3, 1977.

(B) The proposed Amendment with respect to Section 9.4(d) of the NEPOOL Agreement (Section 1, 1.1 of the Amendment) is hereby rejected for the reasons stated in the body of this order.

[1] Designated as: New England Power Pool Supplement No. 15 to Rate Schedule FPC No. 2.

(C) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-19672 Filed 7-8-77;8:45 am]

[Docket No. ER77-461]

NORTHERN STATES POWER CO.

Notice of Proposed Tariff Change

JULY 5, 1977.

Take notice that Northern States Power Company (Wisconsin) on June 17, 1977, tendered for filing proposed changes in its FPC Electric Service Tariff, FPC Rate Schedule No. 45, Supplement No. 6. Wisconsin states that the proposed changes are requested to alter its agreement with the Village of Bloomer, Wisconsin.

Wisconsin further states that this Agreement was renegotiated at this time since the present Agreement is scheduled to expire in January 1978. Wisconsin proposes an effective date of July 11, 1977, and therefore requests waiver of the Commission's notice requirements.

According to Wisconsin copies of the filing were served upon the Village of Bloomer.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capital Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 11, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-19676 Filed 7-8-77;8:45 am]

[Docket No. E-9572]

PAPAGO TRIBAL UTILITY AUTHORITY AND ARIZONA ELECTRIC POWER COOPERATIVE, INC. v. ARIZONA PUBLIC SERVICE CO.

Order Instituting Investigation, Permitting Intervention, and Establishing Procedures

JULY 5, 1977.

On October 28, 1976, the Papago Tribal Utility Authority (PTUA) and Arizona Electric Power Cooperative, Inc. (AEPCO) jointly tendered for filing a complaint against Arizona Public Service Company (APS) alleging that APS has failed to comply with certain provisions of the Order Approving Stipulation and Offer of Settlement Subject to Conditions issued by the Commission on September 16, 1975, as clarified by an order issued on November 4, 1975, in Docket Nos. E-8621, et al., E-9280, et al., and E-9081, and with the express terms of the June 27, 1975 settlement agreement thereby approved. The proceedings in Docket Nos. E-8621, et al., E-9280, et al., and E-9081 were concerned primarily with certain automatic adjustment provisions. At issue in the proceedings herein are the provisions in the June 27 agreement and the September 16 order relating to the flow through of certain tax credit benefits.

Specifically, the complaint alleges the following:

(1) APS has flowed through the additional investment tax credit benefits it realized under the Tax Reduction Act of 1975[1] only from September 16, 1975 forward, rather than from January 1, 1975 forward, as was agreed and ordered.

(2) APS has failed to implement its flowthrough of these tax benefits by following the procedure specified in the "Corrections of Formulae" provision of its wholesale power supply agreements which require that it will consult with affected jurisdictional customers in order to agree on new formulae to effectuate such flowthrough, as agreed and ordered herein. Instead, APS has unilaterally determined the amount of such tax benefits to be flowed through and has refused to disclose the basis for its computations.

The proceedings in Docket Nos. E-8621, et al., E-9280, et al., and E-9081 arose from several APS rate filings which included automatic adjustment provisions. By order issued July 15, 1974, the Commission instituted a Section 206 investigation into the reasonableness of the APS rates, including the automatic adjustment clauses, in these consolidated proceedings. A settlement was reached among the parties on June 27, 1975, and was approved by the Commission by order dated September 16, 1975.

The relevant paragraph of the settlement agreement which requires APS to flowthrough certain tax credit benefits states as follows:

3. The Federal income tax law having been changed by the Tax Reduction Act of 1975 and APS having made its election thereunder to immediate flowthrough of a greater investment tax credit benefit than was previously available, this shall be deemed good cause for implementation of an adjustment flowing through all of the additional investment tax credit benefit to APS under the "Correction of Formulae" provisions of the adjustment clause in APS' wholesale power or transmission agreements containing such correction clause, including the wholesale contracts with the five distributors listed in footnote 2 above.[2]

Order Clause (B) of the September 16 order states, in part:

* * * *Provided, however,* That Arizona shall flow through all of the investment tax credit resulting from the Tax Reduction Act of 1975, as provided in the settlement agreement.

[1] The June 27 settlement agreement refers to the Tax Reduction Act of 1975.

[2] Footnote 2 refers to Citizens Utility Company (Citizens), Wellton-Mohawk Irrigation and Drainage District (Wellton-Mohawk), and Arizona Power Authority (APA), as well as to PTUA and AEPCO.

Complainants allege that the language of the settlement agreement and the September 16 order, cited herein above, leave little room for doubt that APS was to flow through all of the dollars of additional investment tax credit benefits it received under the 1975 Act by making such flowthrough effective from January 1, 1975 when the new tax credits became effective. The complainants state that they were not aware of the fact that APS assumed the contrary interpretation, i.e., that the date which the FPC approved the settlement agreement was the date on which APS's obligation to flow through the tax credit benefits was to begin, until they received a letter dated April 27, 1976 transmitting refunds to the complainants pursuant to the September 16 Commission order. The refunds did not include any amount for the additional investment tax credit benefits realized by APS for the period of January 1, 1975 to September 16, 1975.

PTUA and AEPCO further allege that the calculations they received from APS, at their request, make it impossible to determine either the amount of the additional investment tax credit benefit to APS or the manner in which APS calculated the distributions it made for the period beginning September 16, 1975. In addition, the complainants allege APS's failure to comply with the terms of the settlement agreement which they state requires APS to consult with its wholesale customers to determine, by mutual agreement, the measure and method of flowing through the additional tax credit benefits.

PTUA and AEPCO state that an effort at informal resolution of their complaints has been unsuccessful.

To correct the conditions described in the allegations, the complainants request the Commission to find that:

(1) APS is obligated to flow through all additional investment tax credit benefits received from January 1, 1975 forward;

(2) APS is obligated to determine the amount and method of flowing through refunds atributable to such additional investment tax credit benefits in accordance with the "Corrections of Formulae" provisions of its wholesale power supply agreements with PTUA and AEPCO; and that

(3) APS shall disclose fully its federal and state income tax returns and all other data relevant to a determination of such additional investment tax credit benefits.

PTUA and AEPCO further request that, on the basis of such findings, the FPC issue an order directing APS to immediately meet with its customers so that agreement may be reached upon an appropriate means whereby the entire tax savings accruing to APS by virtue of the additional investment tax credit benefits enacted by the Tax Reduction Act of 1975 will be flowed through to PTUA and AEPCO, starting with January 1, 1975.

Notice of the Complaint was issued on November 16, 1976, with responses due on or before December 13, 1976. On November 29, 1976, APA and Wellton-Mohawk filed a Joint Petition for Leave to Intervene, and on December 27, 1976, Citizens filed a Petition to Intervene Out of Time. Neither party added to the allegations

raised in the Complaint but only requested that they be permitted to participate fully in any proceedings which might be initiated as a result of the Complaint.

By letter dated November 12, 1976, the Commission served a copy of the subject Complaint on APS advising them that an answer to the Complaint was required within 30 days. On December 10, 1976, APS filed its response.

With regard to complainants' allegation that all additional investment tax credits should be flowed through from January 1, 1975, rather than only from September 16, 1975, APS contends that if such had been the intent of the Stipulation it would have been plainly so stated. APS points out that in its filings of December 2, 1975, in compliance with the aforementioned Commission order of September 16, it is specifically stated that the rate schedules are to be effective as of September 16, 1975. APS states that the December 2 filings as to both complainants contained a statement relating to the "Correction of Formulae" clause, which reads as follows:

3.1(b) Applicable after September 16, 1975, all rates schedules having a "Correction of Formulae" clause shall have the benefits of the flow through of the investment tax credit under the Tax Reduction Act of 1975 by reason of the Stipulation of Settlement and the Commission's Order issued September 16, 1975.

APS argues that notice of these filings was issued, but that no one objected.

With regard to the allegations that APS unilaterally determined the amount of the tax benefits to be flowed through and refused to disclose the basis for its computations, APS contends that the implementation of the tax investment credit under the Tax Reduction Act of 1975 was a part of the extensive settlement negotiations in Docket Nos. E-8621, et al., and that APS had sent to complainants sufficient explanatory material with its June 2 calculations and also with its December 2 compliance filing.

The Commission's review of the complaint, the petitions to intervene, and APS's response thereto indicates that PTUA and AEPCO have raised issues which require development in an evidentiary proceeding. An investigation is necessary to determine (1) the proper effective date for APS's flow through of the additional tax investment credit benefits resulting from the Tax Reduction Act of 1975, (2) whether APS is flowing through the full amounts of the tax investment credits, and (3) whether APS is using the proper methodology. Further, we determine that APA and Wellton-Mohawk have standing to intervene in this docket.

The Commission finds. (1) It is necessary and proper in the public interest and to aid in the enforcement of the Federal Power Act that the Commission enter into an investigation concerning APS's proper flowthrough of certain tax credit benefits resulting from the Tax Reduction Act of 1975.

(2) Good cause exists to allow APA and Wellton-Mohawk to intervene in the proceedings herein instituted.

The Commission orders. (A) Pursuant to the authority of the Federal Power Act, particularly Sections 306, 307, 308, and 309 thereof, and the Commission's Rules of Practice and Procedure, and the Regulations under the Federal Power Act, a Presiding Administrative Law Judge for that purpose (see Delegation of Authority, 18 CFR 3.5(d)), shall convene a pre-hearing conference on July 28, 1977, at 10 a.m., in a public hearing room of the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, concerning the issues discussed herein. Said Presiding Administrative Law Judge is hereby authorized to establish all procedural dates and to rule upon all motions (except petitions to intervene, motions to consolidate and sever and motions to dismiss), as provided for in the rules of practice and procedure.

(B) APA and Wellton-Mohawk are hereby permitted to intervene in the proceeding herein instituted, subject to the rules and regulations of the Commission: *Provided, however,* That the participation of the intervenors shall be limited to matters effecting the rights and matters specifically set forth in their petitions to intervene. *And provided, further,* That the admissions of the intervenors shall not be construed as recognition that they might be aggrieved because of any order or orders issued by the Commission in this proceeding.

(C) The Secretary shall cause the prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-19670 Filed 7-8-77;8:45 am]

[Docket No. CI75-541]

PAUL R. DAVIS AND LESTOR B. WOOD ET AL.

Order to Show Cause, Setting Formal Hearing, and Prescribing Procedures

JULY 1, 1977.

On March 12, 1975 Paul R. Davis and Lester B. Wood (Applicants) filed in Docket No. CI75-541 an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon a sale of natural gas in interstate commerce to Texas Eastern Gas Transmission Corporation (Texas Eastern) from the Woodlawn Field, Harrison and Marion Counties (Other Southwest Area). Such sales are made pursuant to a contract dated June 2, 1955 on file a applicants' FPC Gas Rate Schedule No. 1 and certificated in Docket No. G-9036.

Applicants' stated reason for the requested abandonment is that a third party, Dorchester Gas Processing Company (Dorchester), operator of the gathering system, processing plant and delivery line necessary to actually implement the sale, finds it uneconomical to continue operation of certain of these facilities due to monthly volumes of casinghead gas produced, processed and sold. In connection with the filing of its application for abandonment, applicants state by letter dated May 8, 1975 that there are approximately 10 to 12 oil wells producing oil and casinghead gas and that rather than flare such gas, it is being processed and sold at the plant tailgate for delivery to a local gas line (East Texas Industrial Gas Company). Applicants also estimate remaining reserves to be produced over a one year period to approximate 24,000 to 36,000 Mcf. By letter dated May 23, 1977 applicants relate that in excess of 51,000 Mcf have been delivered at the plant tailgate to East Texas from May, 1975 through March, 1977. By letter dated August 4, 1975 applicants state that they hold minority interests in East Texas and that East Texas owns a 25 percent interest in the Dorchester Woodlawn Gasoline plant facilities. As of May 12, 1976 applicant Davis also served as one of five Directors on East Texas Board of Directors.

Dorchester, by letter dated April 1, 1976, advised that the gathering, processing, and delivery line facilities were built in 1954 under a gas processing agreement between Woodlawn Processing Corporation and the Gas Owners whereby Woodlawn was to install the above facilities as consideration for execution of the Gas Processing Agreements by the Gas Owners. As payment for installing the gas handling facilities, Woodlawn received a portion of the liquids from gas wells and certain payments for gathering, compressing and processing the casinghead gas. The facilities installed by Woodlawn were, according to Dorchester, required to prepare the gas for marketing and were not subject to the provisions of section 7(c) of the Natural Gas Act. Dorchester acquired a 25 percent interest in these facilities in 1963 and the remaining 75 percent on July 1, 1972. Subsequently, on December 1, 1972, Dorchester sold a 25 percent interest in the facilities to East Texas. Dorchester states that no application for abandonment was filed inasmuch as the 8 mile delivery line from the plant to Texas Eastern's transmission line was not certificated when constructed.

We note that applicants' request for abandonment raise serious questions apart from the immediate issue of whether approval is warranted. In particular, we note that since deliveries ceased to Texas Eastern commencing in November, 1974 in excess of 67,000 Mcf of natural gas has been diverted to the intrastate market without first having obtained Commission permission and approval. Moreover, Dorchester's operation of the 8 mile delivery line from the plant tailgate to Texas Eastern's transmission line involving the transportation of natural gas in interstate commerce without obtaining a certificate and its subsequent cessation of service in connection with the subject sales to Texas Eastern with-

out prior Commission permission and approval constitute apparent violations of Sections 7(c) and 7(b) respectively of the Natural Gas Act.

This order will therefore direct that a hearing be convened, concerning not only the request for abandonment authorization but also to ascertain facts and circumstances surrounding the applicant's termination of deliveries to Texas Eastern and concomitant diversion of such gas to the intrastate market through East Texas, an entity in which applicants purportedly hold a minority interest and representation on the Board of Directors. Concurrently, Texas Eastern's acquiescence to such cessation of deliveries and its apparent inaction to obtain reinstitution of service or monetary compensation for such loss of deliveries warrant evaluation. Further, Dorchester's operation and subsequent cessation of the 8 mile delivery line from the plant tailgate to Texas Eastern's transmission line ostensibly for economic reasons merit examination as to the facts and circumstances precipitating such action.

In view of the foregoing, we are further directing applicants to show cause why they should not be found in violation of Section 7(b) of the Natural Gas Act and the Commission Regulations thereunder for not first securing the requisite authorization before abandoning jurisdictional sales of natural gas. Similarly, we direct Dorchester to show cause why it should not be found in violation of Sections 7(c) and 7(b) respectively for operating the above mentioned 8 mile delivery line without obtaining Commission certification and thereafter for cessation of service without prior Commission approval, thereby denying applicants the capability to implement the sale of casinghead gas to Texas Eastern. In this connection, alternative courses of action or remedies available are matters also be evaluated.

The Commission finds: (1) It may be that applicants and Dorchester are in violation of the Natural Gas Act and the Commission's Regulations thereunder.

(2) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that a public hearing be held on matters involved and issues presented in these proceedings as hereinbefore described.

(3) Opportunity for participation in this proceeding by intervenors and protestants may be in the public interest.

The Commission orders: (A) Applicants shall show cause, if any there be, at the hearing directed in paragraph (C) below why they should not be held in violation of Section 7(b) of the Natural Gas Act and the Commission's Regulations thereunder for not having obtained authorization before abandoning jurisdictional sales of natural gas as hereinbefore described.

(B) Dorchester shall show cause, if any there be, at the hearing directed in paragraph (C) below why they should not be held in violation of Sections 7(c) and 7(b) of the Natural Gas Act and the Commission's Regulations thereunder for operating the hereinbefore described 8 mile delivery line without obtaining prior Commission approval and thereafter for cessation of service without obtaining prior Commission approval.

(C) Pursuant to the authority of the Natural Gas Act, particularly Sections 7, 14, 15, and 16 thereof, the Commission's Rules of Practice and Procedure under the Natural Gas Act (18 CFR Chapter I) a public hearing concerning the abandonment application, the show cause issues, and any other issues presented in this proceeding will be held in a hearing room at the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. Applicants, Dorchester, and Texas Eastern shall file with the Secretary of the Commission and serve upon the Presiding Administrative Law Judge, the Commission Staff, and all other parties, testimony and exhibits addressing the specific issues set forth in this order, including but not limited to, the circumstances surrounding:

(1) Applicants' efforts to reinstitute service and attempts to pursue alternative courses of action before and after diversion of residue gas to the intrastate market;

(2) Applicants' refusel to seek special relief available under to provisions of Section 2.76 of the Commission's Rules and Regulations;

(3) Texas Eastern's efforts, if any, to reinstitute service ad attempets to pursue alternative courses of action before and after cessation of deliveries by applicants;

(4) Texas Eastern's efforts, if any, to obtain monetary compensation for loss if deliveries attributable to applicants diverted gas;

(5) Dorchester's efforts, if any, to reinstitute service and attempts pursue alternative courses of action before and after cessation of service of its 8 mile delivery line necessary to implement the sale of subject gas to Texas Eastern;

(6) The details of efforts, if any, by Applicants, Dorchester, or Texas Eastern to arrange for sale, leasing or sale/leaseback of the aforesaid 8 mile delivery line;

(7) Detailed explanation supporting requested abandonment by applicants;

The 7 above enumerated items, statements showing full details of accounts (as required under Article X of the Gas Processing Agreement dated June 3, 1955) relating to Dorchester's distribution of gross and net proceeds from the sales of residue gas and plant products as among Seller, Owner, and Processor from December, 1972 to the present, together with any other testimony and exhibits which applicants, Dorchester, or Texas Eastern propose to offer at the hearing shall be filed on or before August 17, 1977.

(D) An Administrative Law Judge to be designated by the Chief Administrative Law Judge for the purpose (See Delegation of Authority, 18 CFR 3.5(d)), shall preside at the hearing in this proceeding and shall prescribe relevant procedural matters not herein provided.

(E) The presiding Administrative Law Judge shall preside at a pre-hearing conference to be held on September 7, 1977, at 10 a.m., in a hearing room at the address noted in Ordering Paragraph (C).

(F) Notices of intervention or petitions seeking leave to intervene in this proceeding shall be filed with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with the Rules of Practice and Procedure, 18 CFR §§ 1.8 and 1.37(f), on or before July 21, 1977.

(G) That Dorchester Gas Producing, East Texas Industrial Gas Company, and Texas Eastern Gas Transmission Corporation, be, and hereby are added as necessary party respondents to the instant proceeding involving Paul R. Davis and Lestor B. Wood (Applicants).

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-19674 Filed 7-8-77;8:45 am]

[Docket No. CI76-14]

SAN SALVADOR DEVELOPMENT COMPANY, INC., ET AL.

Order Denying Abandonment and Setting Issue of Special Relief for Hearing

JULY 1, 1977.

On July 9, 1975, San Salvador Development Company, Inc., et al. (San Salvador),[1] filed in Docket No. CI76-14 an application pursuant to Section 7(b) of the Natural Gas Act and Sections 157.30 and 250.7 of the Commission's Regulations thereunder requesting authorization to abandon the sale of natural gas in interstate commerce to Tennessee Gas Pipeline Company, A Division of Tenneco Inc. (Tennessee), from certain "shallow fields" in the San Salvador Field, Hidalgo County, Texas in order to sell the subject gas in intrastate commerce to Lo Vaca Gathering Company (Lo Vaca). Notice of San Salvador's application was issued on July 24, 1975, and appeared in the FEDERAL REGISTER on July 30, 1975, at 40 F.R. 31992.

On October 14, 1954, San Salvador entered into an agreement with Tennessee (then Tennessee Gas Transmission Company) for the sale and purchase of natural gas from the San Salvador Field.[2] Pursuant to the terms of the October 4, 1954, contract, gas was produced for a number of years with a gradual decline in production, which ultimately culminated in the plugging and abandonment of the wells. San Salvador states that the leases dedicated to

[1] San Salvador submitted the instant application for abandonment for itself and for Highland Resources, Inc., (Highland) as assignee of 75 percent of its working interest in the subject leases under a Partial Assignment dated June 11, 1974.

[2] Pursuant to San Salvador's October 14, 1954, contract with Tennessee, while San Salvador is required to install facilities necessary to deliver gas from dedicated leases (Section 4(b)) and has the obligation to deliver gas to Tennessee at a pressure sufficient to enter Tennessee's line (Section 7(a)), neither party is obligated to install or operate compressor facilities, but each may do so at its option. (Section 7(c))

Tennessee were terminated for lack of production, but that no application for abandonment was filed. Subsequent to the cessation of the original production and termination of the original leases, Atlantic Richfield Company (ARCO), in March, April and May of 1972, acquired a number of new leases on much of the same property in the San Salvador Field which was covered by San Salvador's Gas Rate Schedule No. 1.[3] On December 14, 1973, ARCO assigned the working interests in the shallow horizons (all horizons from ground level down to 150 feet below the top of the Frio K Sand) to San Salvador under the new leases. San Salvador states that no jurisdictional sales have been made from said shallow sands under the ARCO-San Salvador assignment, but San Salvador has drilled an exploratory well which indicates the existence of "marginal" natural gas reserves of approximately 447,000 Mcf.

By letter of December 1, 1975, in response to a Staff inquiry San Salvador states that if it is to deliver the gas in question to Tennessee, the following facilities are required: (a) 1.3 miles of two-inch pipe, coated and wrapped; (b) metering facilities; (c) relief valve and gate valve; (d) heater; (e) flame arrestor; (f) high pressure separator; (g) low pressure separator; (h) two 210-barrel tanks and stairway; (i) glycol unit, and (j) a compressor installed during the first year; all at a cost of approximately $100,700.

In its December 1, 1975, letter, San Salvador furnished a cost study which indicated, inter alia, that a rate of $2.48 per Mcf would be necessary to make the delivery of natural gas economically feasible. The $2.48 rate was based, in part, on San Salvador's assertion that the return on the money spent including operating expenses should be at least "2 to 1".

On August 13, 1975, Tennessee filed a petition to intervene in the instant proceeding in which it states, inter alia, that it does not oppose the proposed abandonment since it cannot economically install the facilities necessary to take the gas based on the minimal reserves and costs associated therewith. Tennessee points out however that it has verbally contacted San Salvador and inquired if the latter would lay the piping and metering facilities in exchange for a 10.0-cent per Mcf rate increase. San Salvador's response according to Tennessee, was in the negative, stating that a rate increase of that amount would be insufficient.

On March 2, 1977, San Salvador filed a "Motion To Expedite Application To Abandon" pursuant to Section 1.12 of the Commission's Regulations. On April 15, 1977, San Salvador followed the above motion with a filing captioned as a "Petition To Remove Uncertainty", although referred to by San Salvador as a Petition for Declaratory Order pursuant to Section 1.7(b) of the Commission's Regulations. In this petition, San Salvador requested that the Commission promptly resolve the status of the abandonment proceedings and grant abandonment, or, in the alternative, grant Special Relief pursuant to Section 2.76 of the Commission's Regulations. As part of this petition, San Salvador increased its estimate of additional investment from $100,700 to $120,000 and production expense from $13,410 to $18,000.

For the reasons to follow, we shall deny abandonment and set for formal hearing the matter of special relief.

In its April 15, 1977, petition, San Salvador recites a litany of cases and Commission orders that, in its opinion, compel the Commission to authorize the requested abandonment. We disagree. San Salvador initiates its defense with reference to *Michigan Consolidated Gas Co. v. FPC.*[4] The Court in that case noted the obligation of the holder of a certificate of public convenience and necessity to continue service in interstate commerce once commenced.[5] The Court held, and San Salvador agrees, that the burden rests with the applicant to demonstrate that the public interest in such continued service "will in no way be disserved" by the abandonment thereof.[6] San Salvador contends that, since no sales have been made from the subject field for many years, there is no "service" to continue. San Salvador therefore concludes that the public interest will in no way be disserved if its application for abandonment is approved.

San Salvador clearly has not shown that abandonment authorization here of these dedicated reserves will in no way disserve the public interest, and thus its obligation to continue service remains.[7] It goes without saying that the consuming public served by Tennessee's system needs the remaining recoverable dedicated reserves that San Salvador now wishes to deprive them of.

San Salvador then cites *Valley Gas Company v. FPC*[8] as authority for the proposition that a "lack of market support" dictates approval of its abandonment application. San Salvador contends that Tennessee is the customer lending the "lack of market support" component to its case simply because Tennessee does not oppose the abandonment. But, Tennessee has offered an increased rate for the subject gas evidencing its desire to obtain these gas reserves. In addition, in *Valley Gas, supra*, the lack of market support was with respect to an in-ground storage LNG facility from which service had not yet commenced because the facilities had, in the language of the Court, "foundered on insurmountable physical defects."[9]

San Salvador also relies on *Transcontinental Gas Pipe Line Company v. FPC,*[10] the so-called *"La Gloria"* case. There the Court applied a comparative needs test in a situation where service to one jurisdictional pipeline company was to be abandoned and diverted to another jurisdictional pipeline company. Here, not only does San Salvador's proposal involve a diversion of gas from the interstate to the intrastate market, there is no allegation that Lo Vaca needs the subject gas more than Tennessee, which is currently in curtailment.

San Salvador goes on to cite several Commission orders as support for its application for abandonment.

In Terra Resources, Inc., Docket No. RI74-44, 51 FPC 876 (1974), cited by San Salvador[11] the Commission permitted a choice of abandonment or special relief in a situation involving less than one quarter of the reserves involved herein and which entailed very high operating expenses. In both Cities Service Oil Company, et al., Docket No. G-18352, et al. (March 2, 1977) and Amoco Production Company, Docket No. G-7532, et al. (March 11, 1977) we granted abandocument where a direct sale was converted to a percentage sale and where, unlike here, the gas sales were to remain in interstate commerce.

Arena Oil and Gas Company, Docket No. CI76-326 (March 7, 1977), M. W. Messer, Docket No. CI76-158 (March 7, 1977), and Stephens and Cass, Docket No. CI76-291 (March 11, 1977) cited by San Salvador have no bearing here inasmuch as they all involved virtually depleted reservoirs. Finally, Arkansas-Louisiana Gas Company, Docket No. CP76-329 (March 8, 1977) also lends no support to San Salvador's position. That proceeding involved the abandonment of a so-called "dump" sale contract arrangement that hadn't been utilized since 1971, for which there was no anticipation of future use, and in which the related facilities were left in place for future use in emergency sales pursuant to Section 157.22 of the Commission's Regulations. There is simply no parallel to the situation presented here.

We must deny San Salvador's application for abandonment because we are unable to find that, as mandated by § 7 (b) of the Natural Gas Act:

> the available supply of natural gas is depleted to the extent that the continuation of service is unwarranted, or that the present or future public convenience or necessity permit such abandonment. 15 U.S.C. § 717 (b).

[3] Cancelled by order of October 15, 1971, which granted San Salvador a small producer certificate in Docket No. CS71-565.

[4] 283 F. 2d 204 (D.C. Cir. 1960), cert. denied, 364 P.S. 913 (1960).

[5] Id. at 214.

[6] Id.

[7] As the Supreme Court stated in *Sunray Mid-Continent Oil Co. v. FPC:* Moreover, once so dedicated [to interstate commerce] there can be no withdrawal of that supply from continued interstate movement without Commission approval. 364 U.S. 137,156 (1960).

[8] 487 F. 2d 1182 (D.C. 1973).

[9] Id. at 1186.

[10] 488 F. 2d 1325 (D.C. Dir. 1973).

[11] Referring to O. G. McClain, Docket No. CI74-173, Opinion No. 110, 52 FPC 1245, 1247, (1974).

San Salvador readily admits that the subject reserves are not depleted and indicates that a continuance of service is warranted as evidenced by its desire to sell the subject gas to Lo Vaca. Nor does the "present or future public convenience or necessity permit such abandonment" in these circumstances. San Salvador seeks to rid itself of Commission price regulation in order to sell the subject gas at the higher intrastate market price. Personal financial gain is the motivating force behind this proposal, not the public interest. As the Court stated in Michigan Consolidated, *supra*.

> If [the applicant] wants to abandon service * * * because it prefers to use that gas for more profitable unregulated sales, or because it wants to be rid of what it considers a vexatious servitude, these are not reasons for granting its request.[12]

Consequently, we shall deny San Salvador's application for abandonment. But, we shall set for formal hearing the issue of what rate increase, if any, is justified for these previously certificated sales pursuant to Section 2.76 of the Commission's Statements of General Policy and Interpretations (18 CFR 2.76) so as to give San Salvador an opportunity to show that it is entitled to a higher rate. The data submitted thus far does not justify San Salvador's estimate that a $2.48 rate is necessary for this sale. The current base ceiling price applicable to San Salvador's share of gas, based on the December 4, 1974, spud-in date of the well, is $1.307 at 14.73 psia based on the rate established in Opinion No. 770-A as adjusted for the 130 percent small producer differential pursuant to Opinion No. 742, as amended, and tax reimbursement, and subject to further adjustment for gathering allowance and BTU adjustment. The large producer rate as adjusted for tax reimbursement applicable to Highland's share of the gas is $1.005 per Mcf.

In order to develop a complete record in this proceeding, such proceeding should develop, and San Salvador shall submit evidence and testimony including, but not limited to the following:

1. A detailed and itemized presentation showing what costs would be required to produce and deliver the recoverable reserves including full documentation of the unit price at which such undertaking would be feasible.
2. A detailed analysis and presentation of the recoverable reserves in the subject well, including a complete explanation of all tests conducted and technical data relied upon to arrive at the estimated reserves.
3. Copies of San Salvador's December 14, 1973, assignment from ARCO and its June 11, 1974, assignment to Highland.
4. Copies of San Salvador's base October 14, 1954, contract with Tennessee.

The Commission finds: (1) The participation of Tennessee in this proceeding may be in the public interest.

(2) San Salvador's application for abandonment filed in Docket No. CI76-14 should be denied.

3. Good cause exists to set the matter of special relief for hearing.

[12] 283 F.2d 204 at 214.

The Commission orders: (A) Tennessee is permitted to intervene in Docket No. CI76-14 subject to the rules and regulations of the Commission; Provided, however, that participation of such intervener shall be limited to matters affecting asserted rights and interests as specifically set forth in the petition to intervene; and Provided, futher that the admission of such intervener shall not be construed as recognition by the Commission that it might be aggrieved because of any order of the Commission entered in this proceeding.

(B) Pursuant to the authority of the Natural Gas Act, particularly Sections 4, 5, 7, 14, 15, and 16 thereof, as implemented by the Commission's Rules of Practice and Procedure and the Regulations thereunder, a Pre-hearing Conference shall be held commencing on July 19, 1977, at 10:00 A.M. in a hearing room of the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, concerning the issue of what rate increase, if any, is warranted for the subject sales of natural gas to Tennessee.

(C) An Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose (See Delegation of Authority, 18 CFR 3.5(d)) shall preside at the hearing in this proceeding, with authority to establish and change all procedural dates, and to rule on all motions to consolidate and sever, and motions to dismiss, as provided for in the Rules of Practice and Procedure.

(D) On or before July 13, 1977, San Salvador shall file with the Secretary and serve all testimony and exhibits comprising its case-in-chief consistent with the evidentiary requirements of this order and Section 2.76 of the Commission's Statements of General Policy and Interpretations, 18 CFR 2.76.

(E) San Salvador's application for abandonment filed in Docket No. CI76-14 is denied.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-19671 Filed 7-8-77;8:45 am]

[Docket No. CP76-314]

SOUTHERN TRANSMISSION CORPORATION, ET AL.

Order Providing Formal Hearing and Granting Interventions

JULY 5, 1977.

On March 30, 1976, Southern Transmission Corporation, (STC) filed, as later supplemented, an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of 148 miles of proposed 8⅝-inch O.D. pipeline, one 1,500 H.P. compressor station, two metering stations, and appurtenant facilities and the transportation of natural gas thereby.

It is proposed that the pipeline would extend from a point approximately 7 miles southwest of Aberdeen, in Monroe County, Mississippi, to a point 12 miles north of Memphis, Tennessee, to the plant of W. R. Grace and Co. (Grace), the parent company of STC. It is contemplated that up to 25,000 Mcf per day of natural gas would be transported from Grace's Corinne-Strong gas fields in Monroe County to the ammonia and urea plants owned and operated by Grace in Shelby County, Tennessee. It is estimated by Grace that the total recoverable proved and probable ipitial reserves of the subject fields are 89,309 MMcf, of which 65,794 MMcf represents proved reserves. The total estimated cost of the proposed facilities is $15,763,000, which STC plans to finance through long term loans and equity contributions by Grace, or through financing commitments with lending institutions.

STC alleges that the Grace plant receives all its gas from Memphis Light, Gas and Water Division, City of Memphis, Tennessee (MLGW), which in turn receives all its pipeline supply from Texas Gas Transmission Corporation (Texas Gas). Although the detailed impact of MLGW's curtailment plan on the Grace plant has not been made known to Grace, Grace estimates that its curtailment was 38 percent by April 1, 1977, and will be 60 percent by November 1, 1977, based on the historical relationship between Texas Gas' reserves and deliveries to MLGW.

It is further proposed that MLGW would design and construct for STC a 37-mile segment of the prepared pipeline located in Shelby County which would be operated by MLGW and located within its utility easements, with an option of acquisition to STC after 20 years.

The application was noticed in the FEDERAL REGISTER on April 20, 1976 (41 FR 17625). Timely petitions to intervene were filed by Texas Gas, MLGW, Mississippi Valley Gas Company, and Mississippi Public Service Commission. A late notice of intervention was filed by the Tennessee Public Service Commission. MLGW objected to STC's proposal to build parts of its pipeline in Shelby County, but later amended its petition to intervene stating that it had reached agreement with STC and Grace whereby MLGW would construct said pipeline for STC as noted above. The Tennessee Public Service Commission amended its notice of intervention stating that it supports STC's proposal as amended by its agreement with MLGW, supra.

The Commission has long encouraged self-help measures. In the instant case there is concern with losses of potential revenue to the ratepayers of nearby pipeline transmission companies who conceivably could transport the volumes of natural gas in their existing pipelines. It is for this reason that Texas Gas, Tennessee Gas Pipeline Company (Tennessee), and Texas Eastern Transmission Company (Tetco) will be joined in this proceeding and allowed to demonstrate at a limited hearing, to be held herein, any counter-proposal they might wish

to make in contrast with the stated proposal of STC, as well as detailing their respective pipeline capacities. STC or any intervenor will have the opportunity to present testimony in comment thereto.

The Commission finds: (1) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that a public hearing be held on the matters involved and the issues presented in these proceedings, as hereinbefore described.

(2) The public convenience and necessity warrants the joining of Texas Gas, Tennessee, and Tetco as parties to this proceeding.

(3) Participation in these proceedings by aforementioned intervenors may be in the public interest. Permitting the filing of the late petitions to intervene will not delay the proceedings and may be in the public interest.

The Commission orders: (A) The proceedings herein are set for hearing and disposition.

(B) Pursuant to the Natural Gas Act, particularly Sections 4, 5, and 15 thereof, the Commission's Rules of Practice and Procedure (18 CFR Part 1), and the Regulations under the Natural Gas Act (18 CFR Chapter I, Subchapter E), and a prehearing conference shall be held on August 9, 1977, commencing at 10 a.m. in a hearing room of the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, to discuss procedural issues and the clarification of issues and will be followed immediately by a hearing on the merits herein.

(C) An Administrative Law Judge, to be designated by the Chief Administrative Law Judge for that purpose (See Delegation of Authority, 18 CFR § 3.5 (d)), shall preside at the prehearing conference in this proceeding with authority to establish and change all procedural dates, and to rule on all motions (with the sole exceptions of petitions to intervene, motions to consolidate or sever, and motions to dismiss), as provided for in the Rules of Practice and Procedure.

(D) The direct case of STC including testimony on the issues raised by this order, as well as any testimony proferred by Texas Gas, Tennessee, Tetco, or any intervenor or staff, shall be filed and served contemporaneously on all parties, the Presiding Administrative Law Judge, and the Commission Staff on or before August 1, 1977.

(E) The aforementioned are permitted to intervene in the instant proceeding subject to the rules and regulations of the Commission; *Provided, however,* That participation of such intervenors shall be limited to matters affecting asserted rights and interests as specifically set forth in the petitions to intervene; and *Provided, further,* That the admission of such intervenors shall not be construed as recognition by the Commission that they might be aggrieved because of any order of the Commission entered in this proceeding.

By the Commission. Commissioner Holloman abstaining.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 77-19680 Filed 7-8-77;8:45 am]

[Docket No. CP77-100, etc.]

TENNECO ATLANTIC PIPELINE CO. ET AL.

Availability of Draft Environmental Impact Statement

JULY 11, 1977.

Notice is hereby given in the above docket that on July 11, 1977, as required by § 2.82(b) of the Commission's General Policy and Interpretations (18 CFR 2.82(b)), copies of the Draft Environmental Impact Statement (DEIS) are being transmitted pursuant to the requirements of the National Environmental Policy Act of 1969 and § 2.82(b) of the Commission's General Policy and Interpretations.

The DEIS, prepared by the Staff of the Federal Power Commission, concerns applications filed by Tenneco Atlantic Pipeline Company (Tenneco Atlantic) Docket No. CP77-100 et al., which relate directly or indirectly to a proposal by Tenneco, pursuant section 3 of the Natural Gas Act, to import liquefied natural gas (LNG) from Algeria to a terminal to be located in the vicinity of St. Johns, New Bruswick, Canada, and enter the United States via the proposed natural gas pipeline near Calais, Maine. Approval of the applications would authorize the construction and operation of facilities necessary to transport approximately one billion cubic feet of natural gas to consumers along Tennessee Gas Pipeline Company's system. A total of 504 miles of pipeline would be required in order to transport the regasified LNG from the border near Calais, Maine, to Milford, Pennsylvania.

This DEIS has been sent to the persons shown in the DEIS summary sheet, all parties to the proceeding, and interested citizens. The DEIS is on file with the Commission and is available for public inspection at its Office of Public Information, Room 1000, 825 North Capitol Street NE., Washington, D.C. 20426, and its regional office located at 26 Federal Plaza, 22nd Floor, New York, N.Y. 10007. Copies of the DEIS are available in limited quantities from the Federal Power Commission's Office of Public Information, Washington, D.C. 20426.

Any person who wishes to do so may file comments on the DEIS. All comments must be filed on or before August 10, 1977. Any person who wishes to present evidence regarding environmental matters in the proceeding must file with the Commission a petition to intervene pursuant to § 1.8 of the Commission's rules of practice and procedure. Petitioners must also file timely comments on the DEIS in accordance with § 2.82(c) of the Commission's Policy and Interpretation.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-19870 Filed 7-8-77;2:30 pm]

[Docket Nos. G-12446, et al.]

TEXAS EASTERN TRANSMISSION CORP., ET AL.

Notice of Filing of Settlement Agreements and Stipulations

JULY 1, 1977.

Public notice is hereby given that on June 28, 1977, pursuant to Section 1.18 (e) of the Commission's Rules of Practice and Procedure, two stipulations and settlement agreements were filed jointly by Continental Oil Co., Sun Oil Co., and General Crude Oil Co. and by Texas Eastern Transmission Corp., respectively, as proposed resolutions of matters pending in the consolidated proceeding involving rate reductions, refunds, and other matters relating to Rayne Field, Acadia Parish, Louisiana. Said filings are contained in Hearing Exhibit Nos. 42' and 43' and are available for public inspection in the Office of Public Information of the Commission.

The settlement agreement of independent producers contains an offer of cash refund of approximately $55 million, offers of first call on rights to purchase gas from specified acreage, and other stipulations. The settlement offer of Texas Eastern Transmission Corp. provides for establishment of a $33 million exploration and development fund, refund of approximately $30 million to customers, establishment of a 5-year amortization account of approximately $8 million to support the above fund, deferral of rate decrease, and other matters.

Any person desiring to be heard or to protest the said offers of settlement should file comments with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, on or before July 22, 1977. Replies to comments may be submitted not later than August 8, 1977. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of the offers of settlement are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-19673 Filed 7-8-77;8:45 am]

[Docket No. CP76-403]

TEXAS GAS TRANSMISSION CORP.

Petition To Amend

JULY 5, 1977.

Take notice that on June 23, 1977, Texas Gas Transmission Corporation (Applicant), P.O. Box 1160, Owensboro, Kentucky 42301, filed in Docket No. CP76-403 a petition to amend the Commission's orders of August 13, 1976 (56 FPC ------), and February 7, 1977 (57 FPC ------), issued in the instant docket pursuant to Section 7 of the Natural Gas Act and Section 2.79 of the Commission's General Policy and Interpretations, so as to authorized the diversion of all or a portion of the volumes of natural gas presently being transported and delivered to Jackson Utility Division,

City of Jackson, Tennessee (Jackson), for the account of Owens-Corning Fiberglas Corporation (Owens-Corning) to Transcontinental Gas Pipe Line Corporation (Transco), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is stated that pursuant to the Commission's orders, issued August 13, 1976, and February 7, 1977, Applicant was authorized to transport and deliver for the account of Owens-Corning a volume of natural gas up to 2,000 Mcf per day to Jackson, and up to 300 Mcf per day to Texas Eastern Transmission Corporation at the point of delivery located near Lebanon, Ohio. The transportation service was authorized for a period of two years from the date of initial delivery, which date was August 27, 1976.

Applicant indicates that by letter agreement dated June 21, 1977, between Applicant and Owens-Corning the two companies have agreed to the diversion of all or a portion of the volumes of natural gas presently being transported and delivered to Jackson for the account of Owens-Corning. Applicant states that the volumes to be diverted would be transported and delivered to Transco at an existing point of exchange between Applicant and Transco near Eunice, Louisiana, or at other mutually agreeable existing points of exchange for ultimate delivery to Owens-Corning's Anderson, South Carolina, plant.

Applicant states that it would charge Owens-Corning 4.67 cents (at 14.73 psia) for each Mcf of natural gas diverted and delivered to Transco for Owens-Corning's account, and that it would retain 0.38 percent above the volume delivered to Transco as makeup for compressor fuel and line loss. The percentage was calculated on an incremental basis for pipeline throughput to an within the rate zone in which delivery by Applicant would be made, it is said.

It is stated that the term during which volumes would be diverted for Owens-Corning's Anderson, South Carolina, plant would run commensurate with the term previously authorized by the Commission in the captioned docket. Applicant states that no new facilties are required in order to effectuate the diversion of volumes.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before July 22, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-19678 Filed 7-8-77;8:45 am]

[Docket No. ER77-462]

TUCSON GAS & ELECTRIC CO.

Filing of Letter Agreement for Wheeling Services

JULY 5, 1977.

Take notice that on June 16, 1977, Tucson Gas & Electric Company ("TGE") tendered for filing a Letter Agreement for Wheeling Services (the "Agreement") between TGE and Nevada Power Company ("NPC") dated June 2, 1977.

TGE states that the primary purpose of this Agreement is to provide temporary assistance to NPC for the wheeling by displacement through TGE's transmission system of certain quantities of energy for delivery to Utah Power & Light Company ("UPL") critically needed by UPL as a result of the drought in the Southwestern United States and the shortage of hydroelectric power otherwise available to UPL.

TGE proposes an effective date of June 1, 1977, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to make application with reference to said Agreement should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426 in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 11, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this Agreement are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-19675 Filed 7-8-77;8:45 am]

[Docket No. CP77-264]

TRANSCONTINENTAL GAS PIPE LINE CORP. AND UNITED GAS PIPE LINE CO.

Notice of Application

JUNE 29, 1977.

Take notice that on June 20, 1977, Transcontinental Gas Pipe Line Corporation (Transco), P.O. Box 1396, Houston, Texas 77001, and United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77001 (Applicants), filed in Docket No. CP77-264 a joint application pursuant to Section 7(c) of the Natural Gas Act and Section 2.79 of the Commission's General Policy and Interpretations (18 CFR 2.79) for a certificate of public convenience and necessity authorizing the transportation of up to 275 Mcf of natural gas per day on an interruptible basis for Sayles Biltmore Bleacheries, Inc. (Bleacheries), and existing industrial customer of Public Service Company of North Carolina, Inc. (Public Service), a Transco CD-2 customer, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicants propose to transport up to 275 Mcf of natural gas per day (at 14.73 psia) of natural gas on an interruptible basis for Bleacheries pursuant to an agreement dated March 17, 1977, among Transco, Bleacheries and Public Service and an agreement dated February 25, 1977, as amended between United and Bleacheries. It is indicated that the proposed volumes of gas would be used at Bleacheries' plant located in Asheville, North Carolina.

Applicants state that Bleacheries has purchased from Louisiana Crude Oil & Gas Company, Inc. (Louisiana Crude), the proposed volumes of gas to be produced from the Monroe Field, Morehouse Parish, Louisiana, and that Bleacheries would pay Louisiana Crude for gas delivered hereunder $1.75 per Mcf for the first year of the agreement and $1.85 per Mcf for the second year of this agreement. It is stated that Bleacheries would arrange to have such quantities of gas delivered to United, which would make equivalent quantities (less those retained as make-up for compressor fuel and line loss) available to Transco at a mutually agreeable authorized exchange point between the two companies. It is further stated that Transco would in turn deliver equivalent quantities (less those retained as make-up for compressor fuel and line loss) to the existing point of delivery to Public Service for the account of Bleacheries, and that Public Service would transport such quantities of natural gas delivered to it by Transco to Bleacheries' Asheville, North Carolina plant. No additional facilities are required to effectuate the transportation service, which would terminate two years following the date of the first delivery which occurred on April 5, 1977, pursuant to temporary authorization granted in the instant docket on March 3, 1977.

It is indicated that the daily quantity to be transported for Bleacheries (less the quantities retained for compressor fuel and line loss make-up), when combined with the quantities Public Service is scheduled under Transco's Rate Schedule CD-2, other transportation with Transco, and any quantities being scheduled for transportation by other customers of Public Service, would not exceed Public Service's authorized daily entitlement under such Rate Schedule CD-2.

Transco would retain initially 3.8 percent of the volumes received for transportation as make-up for compressor fuel and line loss, which percentage is

based on Transco's "company use" factor for pipeline throughput to and within the rate zone in which the delivery by Transco would be made, i.e., Zone 2, it is said. It is stated that Transco would collect an initial charge of 21.55 cents per dekatherm (dt) for all quantities transported and delivered to Public Service for Bleacheries' account. The proposed interruptible transportation rate is the same as that initially charged for comparable long-haul interruptible transportation services by Transco, it is said.

It is stated that United would retain initially 1.5 percent of the volumes received for transportation as make-up for fuel and company used gas, and that Bleacheries would pay United for gas transported a price equal to United's average jurisdictional transmission cost of service in its northern rate zone as such may be determined by United based upon rate filings made from time to time with the Commission, less any amount included in such average jurisdictional cost of service which is attributable to gas consumed in the operations of United's pipeline system. The current average jurisdictional transmission cost of service, exclusive of the cost of gas consumed in United's operations is 20.04 cents per Mcf in the Northern Zone and 17.92 cents per Mcf in the Southern Zone, it is indicated.

Applicants indicate that the Asheville plant would use the 275 Mcf per day for "process" and "plant protection" gas requirements. It is further indicated that there are no other sources of natural gas available to the Asheville plant other than those quantities which might become available from the plant's normal supplier, Public Service, and that Bleacheries has been informed by Public Service that future supplies are uncertain and would be allocated on a month-to-month basis.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 11, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-19681 Filed 7-8-77;8:45 am]

[Docket No. ER77-347]

WISCONSIN POWER AND LIGHT CO.

Order Accepting for Filing and Suspending Proposed Rate Schedules, Granting Interventions, Instituting Hearing and Establishing Procedures

JULY 1, 1977.

Electric rates (acceptance for filing) (suspension) (hearing).

On May 2, 1977, Wisconsin Power and Light Company (WPL) submitted for filing proposed rate schedules for 32 municipalities, five rural electric cooperatives, and two investor-owned wholesale customers. The proposed rates would increase revenues to WPL by $5,425,456 for the test period year ending June 30, 1978, representing a 20.86% increase to these wholesale customers over the revenues presently being collected.[1] WPL requests an effective date of July 1, 1977, for all of the affected customers.

The Commission issued a deficiency letter on June 1, 1977, and WPL cured its filing on June 10, 1977. Since July 1, 1977 continues to be the requested effective date, a waiver of notice requirements request will be implied.

Public notice of the filing was issued on May 10, 1977, with all protests or petitions due on or before May 25, 1977. On May 11, 1977, the Municipal Wholesale Power Group (MWPG), representing "approximately 24 wholesale customers" of WPL, filed a Notice of Intention to Intervene, Request for Rejection and Idea for Maximum Suspension. On May 26, 1977, WPL filed a Response to the MWPG filing. On May 25, 1977, MWPG filed a Petition to Intervene, Request for Rejection and Request for Maximum Suspension. On June 10, 1977, WPL filed a response to the petition.

The five electric cooperatives[2] filed a Petition to Intervene and Request for Five-Month Suspension on May 25, 1977. On June 6, 1977, the Wisconsin Public Commission filed a Notice of Late Intervention In the Event Formal Hearing Is Held.

MWPG, in its request for rejection of WPL's filing, made the following assertions: (1) The filing violates § 35.13(b)(2) of the Regulations since WPL failed to compare the proposed rates with its rates charged to its wholly owned subsidiary, South Beloit Water, Gas and Electric Company (Beloit); (2) the filing is on its face discriminatory between the municipals (W-3) and the cooperatives (W-2) with regard to rates and contract provisions, (3) the filing contains a fuel adjustment clause which violates § 35.14(a)(2)(ii) of the Regulations; (4) the filing contains no Statement E1, in violation of Regulation 35.13(b)(4)(iii); (5) the filing violates the fixed-price, fixed-term contracts to four of WPL's wholesale customers.

Regarding MWPG's first three allegations, these issues involve subjects to be discussed and resolved at a public hearing which we will hereinafter order. As for the E1 filing, WPL submitted Statement E1 for filing on May 19, 1977, and thus is in compliance with the Regulation requirement.

However, MWPG's point about the fixed-rate contracts with the four resale customers is well taken. Fixed rate contracts involving Pioneer Power and Light Company,[3] Cross Plains Electric Company,[4] the City of Princeton,[5] and Shullsburg[6] will not expire prior to the proposed July 1, 1977 effective date. In its Response to MWPG's Notice of Intervention, WPL stated that "it does not propose to apply the proposed rates to its customers until its contract with its customers expires." As a result of the assurances made by WPL, we shall accept all of the proposed rate schedules, including those affecting customers presently under fixed-rate contracts with WPL, for filing. In addition, we shall require WPL to notify the Commission when it has commenced service under the proposed rates to any customer whose fixed rate contract expires after the effective date granted by the Commission.

The increased rates proposed by WPL have not been shown to be just and reasonable and may be unjust, reasonable, unduly discriminatory, preferential, or otherwise unlawful. Based on a review of all of the pleadings, we will accept for filing the proposed increased rates and will suspend their effectiveness for five months, i.e., to December 1, 1977, at which time they will become effective subject to refund.

The Commission finds: (1) Good cause exists to grant the Petitions to Intervene of the Municipal Wholesale Power Group, the Wisconsin Public Service Commission, and the Adams-Marquette Electric Cooperative, Central Wisconsin Electric Cooperative, Columbus Rural Electric Cooperative, Rocky County Electric Cooperative, and Waushara County Electric Cooperative.

(2) Good cause exists to accept for filing WPL's proposed rate schedules and to suspend the rates contained therein

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[1] See Attachment A for Rate Schedule designations.

[2] Adams-Marquette Electric Cooperative, Central Wisconsin Electric Cooperative, Columbus Rural Electric Cooperative, Rocky County Electric Cooperative, Waushara County Electric Cooperative.

[3] Contract expires August 31, 1977.

[4] Contract expires September 16, 1977.

[5] Contract expires October 21, 1977.

[6] Contract expires July 30, 1978.

until December 1, 1977, when they shall become effective, subject to refund.

(3) It is necessary and in the public interest that an evidentiary hearing be held in this docket in order for the Commission to discharge its statutory responsibilities under the Federal Power Act.

The Commission orders: (A) The Petitions to Intervene of the Municipal Wholesale Power Group, the Wisconsin Public Service Commission, and the Adams-Marquette Electric Cooperative, Central Wisconsin Electric Cooperative, Columbus Rural Electric Cooperative, Rocky County Electric Cooperative and Waushara County Electric Cooperative are hereby granted in this proceeding: *Provided, however,* That participation of such intervenors shall be limited to matters set forth in the petitions to intervene; and *Provided, further,* that the admission of such intervenors shall not be construed as recognition by the Commission that they might be aggrieved because of any order or orders of the Commission entered in this proceeding.

(B) WPL's proposed rate schedules are hereby accepted for filing and suspended for five months until December 1, 1977, when they shall become effective subject to refund.

(C) WPL shall notify the Commission immediately upon commencement of service under the proposed rates to any customer whose fixed-rate contract expires after the effective date granted by the Commission.

(D) Pursuant to the authority contained under the Federal Power Act, particularly Sections 205 and 206 thereof, the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act, a public hearing shall be held concerning the justness and reasonableness of the rates, charges, terms and conditions of service included in the proposed rate schedules.

(E) The Staff shall prepare and serve top sheets on all parties for Settlement purposes on or before October 5, 1977. (See Administrative Order No. 157).

(F) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose (See Delegation of Authority, 18 CFR 3.5(d)), shall preside at an initial conference in this proceeding to be held on October 14, 1977, at 10:00 a.m., in a hearing room of the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. The Law Judge is authorized to establish all procedural dates and to rule upon all motions to consolidate and sever and motions to dismiss, as provided for in the Rules of Practice and Procedure.

(G) Nothing contained herein shall be construed as limiting the rights of parties to this proceeding regarding the convening of conferences or offers of settlement pursuant to Section 1.18 of the Commission's Rules of Practice and Procedure.

(H) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

Customer	Supplement No.	Rate schedule FPC No.	Supersedes supplement No.
Municipal customers—rate W-3:			
City of Evansville	12	29	11
Village of Gresham	13	31	12
Village of New Glarus	12	39	11
Village of Hustiford	11	71	10
City of Sun Prairie	11	73	10
City of Plymouth	10	75	9
Village of Muscoda	12	76	11
City of Boscobel	10	77	9
City of Cuba City	10	79	9
City of Waupun	10	82	9
City of Brodhead	10	83	9
Village of Sauk City	9	84	8
City of Juneau	9	86	8
City of Benton	9	88	8
City of Reedsburg	9	89	8
Village of Hazel Green	8	91	7
Village of Mount Horeb	9	92	8
Village of Black Earth	3	116	3
Village of Prairie de Sac	9	95	8
City of Wisconsin Dells	9	96	8
City of Sheboygan Falls	8	98	7
City of Lodi	8	101	7
Village of Pardeville	7	102	6
Village of Wonewoc	5	107	4
Village of Mazomanie	5	108	4
Village of Waunakee	5	109	4
Village of Belmont	5	110	4
Village of Footville	5	111	4
City of Stoughton	3	115	2
City of Princeton	5	68	4
City of Columbus	7	66	6
Pioneer Power & Light Co	7	60	6
Cross Plains Electric Co	7	67	6
Cooperative customers—rate W-2:			
Rock County Electric Cooperative Association	11	69	10
Columbus Rural Electric Cooperative	7	103	6
Waushara County Electric Cooperative	5	105	4
Adams-Marquetta Electric Cooperative	5	112	4
Central Wisconsin Electric Cooperative	5	113	4

[FR Doc.77-19507 Filed 7-8-77;8:45 am]

FEDERAL RESERVE SYSTEM

AMERIBANC, INC.

Acquisition of Bank

Ameribanc, Inc., St. Joseph, Missouri, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(3)) to acquire 80 percent or more of the voting shares of The Morgan County Bank, Versailles, Missouri. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than August 3, 1977.

Board of Governors of the Federal Reserve System, July 1, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-19468 Filed 7-8-77;8:45 am]

CONTINENTAL ILLINOIS CORP.

Order Approving Acquisition of Great Lakes Life Insurance Company

Continental Illinois Corporation, Chicago, Illinois, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval, under section 4(c)(8) of the Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), to acquire Great Lakes Life Insurance Company, Phoenix, Arizona ("Company"), a company that will engage de novo in the activity of underwriting, as reinsurer, credit life and credit accident and health insurance that is directly related to extensions of credit by Applicant's subsidiary bank. Such activity has been determined by the Board to be closely related to banking (12 CFR 225.4(a)(10)).

Notice of the application, according opportunity for interested persons to submit comments and views on the public interest factors, has been duly published (42 FR 21661 (1977)). The time for filing comments and views has expired, and the Board has considered the application and all comments received in the light of the public interest factors set forth in section 4(c)(8) of the Act (12 U.S.C. 1843(c)(8)).

Applicant, the largest bank holding company in Illinois, controls one subsidiary bank, Continental Illinois National Bank and Trust Company of Chicago ("Bank"), the largest bank in the State of Illinois. Bank holds domestic deposits of $9.1 billion[1] representing approximately 14.9 per cent of the total deposits in commercial banks in the

[1] All banking data are as of June 30, 1976.

State. Applicant also engages directly, or through subsidiaries, in leasing, debt financing, mortgage lending, trust, and investment advisory activities on a national and international basis.

Company will be chartered under the laws of Arizona and will initially engage in the activity of underwriting, as a reinsurer, credit life and credit accident and health insurance sold in connection with Bank's direct installment loan and direct open-end credit programs. Inasmuch as the subject proposal involves engaging in this activity de novo, consummation of this transaction would not have any adverse effect upon existing or potential competition in any relevant market.

Credit life and credit accident and health insurance is generally made available by banks and other lenders and is designed to assure repayment of a loan in the event of death or disability of the borrower. In connection with its addition of the underwriting of such insurance to the list of permissible activities for bank holding companies, the Board stated:

> To assure that engaging in the underwriting of credit life and credit accident and health insurance can reasonably be expected to be in the public interest, the Board will only approve applications in which an applicant demonstrates that approval will benefit the consumer or result in other public benefits. Normally such a showing would be made by a projected reduction in rates or increase in policy benefits due to bank holding company performance of this service. (12 CFR 225.4(a)(10), n. 7)

Applicant proposes to offer, through Company, various credit life and credit accident and health insurance coverage to its instalment and open-end credit borrowers at various rates ranging from 7.7 to 40.0 per cent below the approved and prima facie rates established in Illinois.[1] In addition, Applicant proposes to expand the insurance coverage that it currently makes available, increase the amount of indebtedness covered and offer insurance to a broader class of borrowers. Based upon these factors, the Board concludes that Applicant's proposed continued reductions[2] in premiums and expanded coverage are procompetitive and in the public interest.

Based upon the foregoing and other considerations reflected in the record, including a commitment by Applicant to maintain on a continuing basis the public benefits which the Board has found to be reasonably expected to result from this proposal and upon which the approval of this proposal is based, the Board has determined that the balance of the public interest factors the Board is required to consider under section 4(c)(8) is favorable. Accordingly, the application is hereby approved. This determination is subject to the conditions set forth in section 225.4(c) of Regulation Y and to the Board's authority to require such modification or termination of the activities of a holding company or any of its subsidiaries as the Board finds necessary to assure compliance with the provisions and purposes of the Act and the Board's regulations and orders issued thereunder, or to prevent evasion thereof.

This transaction shall be made not later than three months after the effective date of this order, unless such period is extended for good cause by the Board or by the Federal Reserve Bank of Chicago pursuant to authority hereby delegated.

By order of the Board of Governors,[4] effective July 1, 1977.

RUTH A. REISTER,
Assistant Secretary of the Board.

[FR Doc. 77-19555 Filed 7-8-77;8:45 am]

[1] *Prima facie* rates are the maximum rates allowed by the state for particular types of insurance coverage. Where no prima facie rate exists for a type of coverage, the insurance company may apply to the state insurance department for approval of a proposed rate.

[2] Applicant has stated that it anticipates that it will be necessary to raise the rate it charges open-end credit customers for credit accident and health insurance if this application is denied.

VALLEY BANCORPORATION

Order Approving Acquisition of Bank

Valley Bancorporation, Appleton, Wisconsin, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire 80 per cent or more of the voting shares of Shawano National Bank, Shawano, Wisconsin ("Bank").

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the application and all comments received, including, but not limited to, those on behalf of shareholders and customers of Bank filed by Messrs. Frank Feivor and Walter Karth (hereinafter collectively referred to as "Protestants" in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant, the sixth largest banking organization in Wisconsin, controls 14 banks with total deposits of $295.1 million, which represents 1.8 per cent of total deposits in commercial banks in the State.[3] Bank, with deposits of $51.3 million, controls .31 per cent of total deposits in the State. Consummation of the proposed acquisition would increase Applicant's share of statewide deposits to 2.1 per cent, and Applicant would become the fifth largest banking organization in the State of Wisconsin. Inasmuch as the five largest banking organizations in Wisconsin hold only 31.5 per cent of the total deposits in the State, consumption of the proposal would have no appreciable effect on the concentration of banking resources in the State.

While Applicant is not currently represented in the relevant market, three of its subsidiary banks each maintain an office 28 to 30 miles from Bank's sole office. The three offices are located in Outagamie County, in which Applicant's subsidiary banks maintain six additional offices. Although eight of Applicant's fourteen subsidiary banks derive deposits from Bank's service area, the aggregate of those deposits amounts to less than $200,000, and none derives more than $62,000. The aggregate amount of loans Applicant's subsidiaries derive from Bank's service area is less than $30,000. Conversely, Bank does not derive significant amounts of deposits or loans from the service areas of Applicant's subsidiaries. Accordingly, it does not appear that Applicant's acquisition of Bank would eliminate significant amounts of existing competition.

Applicant proposes to enter the Shawano banking market[5] by acquiring the largest of ten banking organizations in that market, with 32.8 percent of total market deposits.[6] The Shawano market does not appear attractive for de novo entry and 12 large multibank holding companies, including the five largest banking organizations in the State, appear to be as likely to enter the Shawano market as Applicant. In light of the above, the Board concludes the proposed acquisition would not have significant adverse effects on potential competition.

The financial and managerial resources of Applicant and Bank are regarded as satisfactory and the future prospects for each appear favorable. Protestants contend that this application should be denied on the grounds that the financial and managerial resources of Applicant are inadequate in that Applicant would assume more debt than it can retire without extracting earnings from Bank and Applicant's subsidiary banks. In connection with the acquisition of Bank, Applicant will incur debt of $5.5 million through the issuance of four-year unsecured promissory notes and 12-year corporate notes.[4] Applicant proposes to service its new debt primarily through dividends from its subsidiary banks and consolidated tax benefits. Applicant's projections of cash flow requirements and growth in assets, earnings, and capital of subsidiary banks appear reasonable in light of historical data. It appears, based upon those projections, that Applicant can service the acquisition debt without imposing excessive burdens on the capital of Bank and its other subsidiary banks. In light of the above the Board regards the financial and managerial resources of Applicant and Bank as satisfactory and consistent with approval.

Protestants argue that the manner in which tender offers were made to Bank's shareholders reflects adversely on the

[4] Voting for this action: Vice Chairman Gardner and Governors Wallich, Jackson, Partee, and Lilly. Absent and not voting: Chairman Burns and Governor Coldwell.

[3] All banking data are as of December 31, 1976.

[5] The Shawano banking market is approximated by Shawano County and the southern one-half of Menominee County.

[6] Market data are as of June 30, 1976.

management of Applicant. Protestants assert that the presidents of Bank and Applicant conducted negotiations without the knowledge of Bank's directors and that Bank's directors did not have an opportunity to analyze the specific proposal, including the debt financing, that Applicant later submitted to the Board. The record before the Board in this case, including submissions by Protestants and Applicant, does not indicate any impropriety or questionable actions in the preparation of Applicant's tender offer. The board of directors of Bank endorsed Applicant's offer to Bank's shareholders following a series of presentations to the board by Applicant and rival offerors, and any discussions between officers of Bank and Applicant were conducted in consultation with legal counsel. While Applicant did not submit its application to the directors of Bank prior to making its tender offer, Applicant forwarded a copy of the application to Bank on the same day that it filed the application wtih the Federal Reserve Bank of Chicago. Furthermore, Applicant's letter proposing the tender offer indicated that Applicant proposed to incur debt in connection with the acquisition, and the specific financing proposal was not put into final form until it was incorporated in the application which, as noted above, was promptly forwarded to Bank.

Protestants state that Applicant's tender offer is below the market value of Bank's shares. The record in this application indicates the Applicant's offer was the highest of the competing bids made to the shareholders, and that the protesting shareholders were among those shareholders owning 97.5 per cent of the Bank's shares who accepted the offer. Bank's own analysis of the projected market value of its shares indicated that Applicant's offer represented a premium on market value. There is nothing in the record to support Protestant's opinion that the offer was inadequate, other than a statement by Protestants that an unidentified expert indicated a higher market value for Bank's shares. In light of the above and other facts of record, the Board is unable to conclude that Applicant's conduct relating to the tender offer reflects adversely on its managerial resources.

Protestants also claim that the convenience and needs of the community to be served would not be aided by the proposed acquisition. Specifically, they state that transferring control of Bank outside of the Shawano community will make Bank less responsive to local needs. In this connection Applicant has indicated that a representative of the Shawano community would be named to Applicant's Board of Directors upon consummation of the proposal. In addition, while it appears that the banking needs of the Shawano area are adequately served at present, Applicant has stated its intention to improve and expand Bank's services in the areas of real estate mortgages, farm loans, loan operations, employee fringe benefits, data processing, and personnel services. Applicant also proposes to offer investment advice at no charge to local municipalities and to provide equity capital to Bank when necessary. In light of these factors the Board regards considerations of the convenience and needs of the community to be served as lending weight in favor of approval of the application.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be made (a) before the thirtieth calendar day following the effective date of this order or (b) later than three months after the effective date of this order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Chicago pursuant to delegated authority.

By order of the Board of Governors,[2] effective June 29, 1977.

RUTH A. REISTER,
Assistant Secretary of the Board.

[FR Doc.77-19556 Filed 7-8-77;8:45 am]

[1] Approximately $1 million of this debt will be used for corporate purposes other than the proposed acquisition, including improving the capital position of subsidiary banks.

[2] Voting for this action: Vice Chairman Gardner and Governors Wallich, Jackson, Partee and Lilly. Absent and not voting: Chairman Burns and Governor Coldwell.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of the Secretary

ADVISORY COMMITTEE ON NATIONAL HEALTH INSURANCE ISSUES

Meetings

Notice of the establishment of the Advisory Committee on National Health Insurance Issues was published in the April 21, 1977 FEDERAL REGISTER (Vol. 42, No. 77, Pages 20675 and 20676).

Pursuant to Pub. L. 92-463, notice is hereby given of one meeting of the Advisory Committee to be held on Friday, July 29, 1977, and another on Saturday, July 30, 1977.

The July 29 meeting will be held from 11 a.m. to 12:30 p.m. and 2 p.m. to 4:30 p.m. at the Holiday Inn, 2700 Roddis Avenue, Marshfield, Wisconsin. The July 30 meeting will be held from 8:30 a.m. to 10 a.m. and from 1:30 p.m. to 4 p.m. at the Wisconsin Center, 702 Langdon Street, Madison, Wisconsin. The agenda will include physician reimbursement, hospital reimbursement, long term care, and planning.

These meetings will be open to the public.

Further information on these meetings may be obtained from either SueZanne B. Hagans in Washington, D.C. 202-472-3026 or from Bill Moran in Chicago, Illinois, 312-353-5166.

Dated: July 8, 1977.

SUSANNE STOIBER,
Project Coordinator.

[FR Doc.77-19986 Filed 7-8-77;10:02 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Assistant Secretary for Consumer Affairs and Regulatory Functions

[Docket No. D-77-423]

INTERSTATE LAND SALES ADMINISTRATOR AND ASSOCIATE ADMINISTRATOR

Redelegation of Authority

By a delegation of authority published in the FEDERAL REGISTER at 41 FR 19365 on May 12, 1976, the Secretary of Housing and Urban Development has, with some exceptions, delegated to the Assistant Secretary for Consumer Affairs and Regulatory Functions the power and authority of the Secretary with respect to the Interstate Land Sales Full Disclosure Act, Title XIV of the Housing and Urban Development Act of 1968, as amended (15 U.S.C. 1701 et seq.). Concurrently, the Assistant Secretary for Consumer Affairs and Regulatory Functions redelegated certain aspects of that power and authority to the Interstate Land Sales Administrator, as published in the FEDERAL REGISTER at 41 FR 19366. The Assistant Secretary for Consumer Affairs and Regulatory Functions has determined that certain aspects of that redelegation should be revised to provide redelegation to both the Interstate Land Sales Administrator and the Associate Administrator of all of the Assistant Secretary's delegated power and authority under the Interstate Land Sales Full Disclosure Act which may be redelegated.

Accordingly, a new redelegation of authority to the Interstate Land Sales Administrator and the Associate Administrator is issued to read as follows:

Section A. *Authority Redelegated.* The Interstate Land Sales Administrator and the Associate Administrator each is authorized to exercise the power and authority of the Assistant Secretary for Consumer Affairs and Regulatory Functions with respect to the program implemented under the Interstate Land Sales Full Disclosure Act, Title XIV of the Housing and Urban Development Act of 1968, as amended (15 U.S.C. 1701 et seq.), except the authority to issue rules and regulations.

Section B. *Authority to Redelegate.* The Administrator is authorized to redelegate to employees of the Department any of the authority delegated under Section A of this redelegation.

Effective Date. This redelegation of authority is effective as of June 30, 1977.

GENO C. BARONI,
Assistant Secretary for Consumer Affairs and Regulatory Functions.

[FR Doc.77-19824 Filed 7-8-77;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

ALASKA

Notice of Filings; Regional Selections

JUNE 27, 1977.

On December 15, 1975, and on June 29, 1976, Bering Straits Native Corporation

filed applications under the provisions of section 14(h)(1) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 43 U.S.C. 1601), for certain lands in the area of the Seward Peninsula, Alaska. The lands described below are, as of the date of filing and subject to valid existing rights segregated from all forms of appropriation under the public land laws:

Kateel River Meridian
(Protracted)

Serial Number	Description		Approx. Acreage
	(Applications for the following lands were filed on December 15, 1975.)		
F-21883	T. 9 S., R. 11. W.:	sec. 24 (fractional).	425
F-21884	T. 10 S., R. 11 W.:	sec. 1, S½ (fractional); sec. 12, N½ (fractional).	550
F-21885	T. 11 S., R. 10 W.:	sec. 8, N½, N½S½ excluding M.S. 1894	475
F-21886	T. 11 S., R. 10 W.:	sec. 11, SE¼SE¼; sec. 12, SW¼SW¼; sec. 13, NW¼NW¼; sec. 14, NE¼NE¼.	160
F-21887	T. 11 S., R. 9 W.: T. 11 S., R. 10 W.:	sec. 6, W½W½; and sec. 1, E½E½, SW¼SE¼, S½SW¼.	440
F-21907	T. 7 S., R. 35 W.:	secs. 26 and 35.	1280
F-21908	T. 7 S., R. 35 W.:	sec. 11; sec. 14; sec. 23.	1920
F-21909	T. 6 S., R. 22 W.:	sec. 15, NE¼.	160
F-21913	T. 13 S., R. 9 W.:	sec. 27, SE¼.	160
F-21914	T. 11 S., R. 9 W.:	sec. 9, E½SE¼; sec. 10, SW¼.	240
F-21929	T. 6 S., R. 9 W.:	sec. 5, W½W½; sec. 6, E½E½.	320
F-21930	T. 7 S., R. 9 W.:	sec. 7, SW¼SW¼; sec. 18, NW¼NW¼.	80
F-21934	T. 13 S., R. 10 W.:	sec. 1, W½W½; sec. 2, E½E½.	320
F-21942	T. 8 S., R. 28 W.:	sec. 16.	640
F-21943	T. 8 S., R. 28 W.:	sec. 9.	640
F-21947	T. 1 N., R. 34 W.:	sec. 20, E½NE¼; sec. 21, W½NW¼.	160
F-21949	T. 1 S., R. 31 W.:	sec. 6, SE¼; sec. 7, E½; sec. 8; sec. 17, W½; sec. 18, E½.	1760

F-21954	T. 1 N., R. 34 W.:	sec. 20, S½; sec. 29, N½.	640
F-21957	T. 5 N., R. 39 W.:	sec. 11, S½S½; sec. 14, N½, N½S½.	640
F-21976	T. 3 S., R. 34 W.:	sec. 20, W½,W½E½.	480
F-21977	T. 3 S., R. 34 W.:	secs. 25 through 36, inclusive (fractional); and	
	T. 4 S., R. 34 W.:	secs. 1 through 6, inclusive (fractional); secs. 8 through 11, inclusive (fractional).	9405
F-21979	T. 3 S., R. 34 W.:	sec. 15, S½.	320
F-21981	T. 3 S., R. 21 W.:	sec. 13, W½W½; sec. 14, E½; sec. 23, E½; sec. 24, W½W½.	960
F-22000	T. 6 N., R. 36 W.:	secs. 9 through 11, inclusive excluding M.S. 1327 secs. 14 through 16, inclusive.	3814
F-22001	T. 6 N., R. 35 W.:	sec. 12, S½S½; sec. 13, N½N½.	320
F-22003	T. 6 S., R. 5 W.:	sec. 33.	640
F-22010	T. 2 N., R. 35 W.:	sec. 19.	622
F-22011	T. 1 N., R. 9 W.: T. 1 S., R. 9 W.:	sec. 36, S½S½; and sec. 1; sec. 2, N½N½.	960
F-22013	T. 1 S., R. 9 W.:	sec. 6, E½; sec. 8, W½.	640

(Applications for the following lands were filed on June 29, 1976.)

F-22870	T. 7 S., R. 20 W.:	sec. 26, W½; sec. 27, E½.	640
F-22871	T. 8 S., R. 20 W.:	sec. 12, SW¼.	160
F-22872	T. 8 S., R. 21 W.:	sec. 10.	640
F-22873	T. 8 S., R. 20 W.:	sec. 18, SW¼.	160
F-22874	T. 7 S., R. 20 W.:	sec. 6, S½.	320
F-22875	T. 6 S., R. 21 W.:	sec. 9, SW¼.	160
F-22876	T. 6 S., R. 21 W.:	sec. 9, S½SE¼; sec. 16, N½NE¼.	160
F-22877	T. 7 S., R. 17 W.:	sec. 8, E½; sec. 9, W½.	640
F-22881	T. 12 S., R. 8 W.:	sec. 23, SE¼SE¼; sec. 24, S½SW¼;	

		sec. 25, NW¼; sec. 26, E½, NE¼.	360
F-22882	T. 11 S., R. 7 W.:	sec. 28, SW¼; sec. 29, SE¼.	320
F-22883	T. 13 S., R. 7 W.:	sec. 22, N½.	320
F-22884	T. 13 S., R. 8 W.:	sec. 13, NE¼.	160
F-22885	T. 9 S., R. 11 W.:	sec. 12, S½ (fractional).	260
F-22886	T. 10 S., R. 10 W.:	sec. 16, SW¼SW¼; sec. 17, SE¼SE¼; sec. 20, E½NE¼; sec. 21, W½NW¼.	240
F-22888	T. 6 S., R. 9 W.: T. 7 S., R. 9 W.:	sec. 33, SE¼; and sec. 4, E½, SW¼; sec. 9.	1280
F-22889	T. 6 S., R. 6 W.:	sec. 31, E½; sec. 32, W½.	640
F-22891	T. 4 S., R. 20 W.:	sec. 9, E½.	320
F-22892	T. 5 S., R. 20 W.:	sec. 21, SE¼NE¼, NE¼SE¼.	80
F-22893	T. 5 S., R. 20 W.:	sec. 9, S½.	320
F-22894	T. 5 S., R. 21 W.:	sec. 2, W½NW¼; sec. 3, E½NE¼.	160
F-22895	T. 3 S., R. 22 W.:	sec. 21, NW¼.	160
F-22896	T. 3 S., R. 23 W.:	sec. 11, S½SW¼; sec. 14, N½SW¼.	160
F-22897	T. 9 S., R. 7 W.:	sec. 19, SE¼; sec. 20, SW¼; sec. 29, NW¼; sec. 30, NE¼.	640
F-22899	T. 4 S., R. 24 W.:	sec. 19, SE¼NE¼, NE¼SE¼; sec. 20, SW¼NW¼, NW¼SW¼.	160
F-22900	T. 5 S., R. 17 W.:	sec. 33, SE¼.	160

In accordance with Departmental regulation 43 CFR 2653.5(h), notice of these selections is being published once in the FEDERAL REGISTER and once a week, for three (3) consecutive weeks, in the *Nome Nugget*. Any party claiming a property interest in lands selected may file their protest with the Bureau of Land Management, 555 Cordova Street, Anchorage, Alaska 99501. All protests must be filed on or before August 10, 1977.

ROBERT E. SORENSON,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.77-19631 Filed 7-8-77;8:45 am]

(NM 30961)

NEW MEXICO

Application

JUNE 29, 1977.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Northwest Pipeline Corporation has applied for one 4½-inch natural gas pipeline right-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN,
NEW MEXICO

T. 31 N., R. 10 W.,
Sec. 3, lots 9 and 10.

This pipeline will convey natural gas across 0.222 of a mile of public land in San Juan County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, New Mexico 87107.

FRED E. PADILLA,
Chief, Branch of Lands and Mineral Operations.

[FR Doc.77-19546 Filed 7-8-77;8:45 am]

(NM 30945 and 30949)

NEW MEXICO

Applications

JUNE 28, 1977.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Northwest Pipeline Corporation has applied for four 4½-inch natural gas pipeline rights-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN,
NEW MEXICO

T. 29 N., R. 5 W.,
Sec. 23, S½NE¼.
T. 31 N., R. 7 W.,
Sec. 10, SW¼NE¼.
T. 30 N., R. 14 W.,
Sec. 13, S½NW¼;
Sec. 14, SE¼NE¼.

These pipelines will convey natural gas across 0.630 miles of public lands in Rio Arribe and San Juan Counties, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, New Mexico 87107.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.77-19547 Filed 7-8-77;8:45 am]

[U-37612]

UTAH

Application

Notice is hereby given that pursuant to Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Northwest Pipeline Corporation has applied for a 4½-inch natural gas pipeline right-of-way across the following lands:

SALT LAKE MERIDIAN, UTAH

T. 20 S., R. 21 E.,
Sec. 24, NW¼NE¼, SW¼NE¼, SE¼NW¼, NE¼SW¼.

The needed right-of-way is a portion of applicant's gas gathering system located in Grand County, Utah.

The purpose of this notice is to inform the public that the Bureau will be proceeding with the preparation of environmental and other analyses necessary for determining whether the application should be approved, and if so, under what terms and conditions.

Interested persons should express their interest and views to the Moab District Manager, Bureau of Land Management, P.O. Box 970, Moab, Utah 84532.

Dated: June 28, 1977.

PAUL HOWARD,
State Director.

[FR Doc.77-19548 Filed 7-8-77;8:45 am]

Geological Survey

[Gulf of Mexico Area]

CONTINENTAL OIL CO.

Revised Outer Continental Shelf Order No. 2

Notice is hereby given that, pursuant to 30 CFR 250.11, the Acting Chief, Conservation Division, U.S. Geological Survey, has approved the final revision to Outer Continental Shelf (OCS) Order No. 2, "Drilling Procedures," for the Gulf of Mexico Area as set forth below.

A Notice was published in the FEDERAL REGISTER on Monday, January 10, 1977 (Vol. 42 FR 2137), delineating the proposed changes and soliciting public comments. Comments were received from the following organizations:

Continental Oil Company
Gulf Energy and Minerals Company—U.S.
Exxon Company, U.S.A.
Offshore Operations Committee
Sun Production Company
Texaco, Inc.

The comments received are discussed as follows:

Paragraph 1. *"Well Casing and Cementing."* It was suggested that the second paragraph of Section 1.C be relocated and should become the third paragraph of Paragraph 1. It is agreed that the philosophy of utilizing appropriate drilling technology is applicable to more than intermediate casing practices; therefore, this paragraph was included in Paragraph 1. All of the comments concurred with the deletion of the phrase, "* * * such that the well bore could be expected to withstand a pressure equivalent to at least a 0.5 ppg kick."

Paragraph 1.C. *"Intermediate Casing."* It was the consensus that the phrase, "* * * such as drilling rate evaluation and shale density analysis * * *," be deleted from the third paragraph of Paragraph 1 (formerly appearing as the second paragraph of 1.C of the proposed Order). The intent of the language, "such as drilling rate evaluation and shale density analysis," was to serve as an example of generally accepted methods and not to restrict or specify methods in all cases and in different phases of the drilling operation. It is agreed that there are many parameters and methods to be considered in drilling operations in various portions of the well and under various conditions.

In regard to the setting depth of intermediate casing, it is considered appropriate to continue to use the proposed language, "based on pressure tests of the exposed formation below the surface casing shoe." The Order was revised by adding the phrase "or other appropriate methods."

Paragraph 2.E(3). *"Actuation."* It was suggested that the blind/shear rams and control stations be actuated "once each trip," and the phrase be added to state "but not more than once each day." This suggestion is considered usual operating practice and appropriate actuation frequency; therefore, the suggestion was included in the appropriate subparagraphs.

The final revisions from the existing Order (effective January 1, 1975) are set forth below with the modifications indicated in italics.

For further information, contact Mr. Richard B. Krahl, Chief of the Branch of Marine Oil and Gas Operations, Conservation Division, U.S. Geological Survey, Mail Stop 620, Reston, Virginia 22092 (703-860-7531).

AUTHORS: Donald W. Solanas, Gulf of Mexico Area; Glenn Frizzell, Gulf of Mexico Area; Lloyd Tracey, National Headquarters; Wm. E. Lyle, Jr., National Headquarters.

The Geological Survey has determined that this document does not contain a major proposal requiring preparation of an Inflationary Impact Statement under Executive Order 11821 and Office of Management and Budget Circular A-107.

W. A. RADLINSKI,
Acting Director.

FINAL REVISION: OUTER CONTENTAL SHELF ORDER NO. 2, GULF OF MEXICO AREA

DRILLING PROCEDURES

1. *Well Casing and Cementing.* All wells shall be cased and cemented in accordance with the requirements of 30 CFR 250.41(a)(1), and the Application for Permit to Drill shall include the casing design safety factors for collapse, tension, and burst. In cases where cement has filled the annular space back to the Gulf floor, the cement may be washed out or displaced to a depth not exceeding 12 meters (40 feet) below the Gulf floor to facilitate casing removal upon well abandonment. For the purpose of this Order, the several casing strings in order of normal installation are drive or structural, conductor, surface, intermediate, and production casing.

The design criteria for all wells shall consider all pertinent factors for well control, including formation fracture gradients and pressures, and casing setting depths.

The Operator shall utilize appropriate drilling technology and state-of-the-art methods, such as drilling rate evaluation, shale density analysis, or other appropriate methods, in order to enhance the evaluation of conditions of abnormal pressure, and to minimize the potential for the well to develop a flow or kick.

All casing, except drive pipe, shall be new pipe or reconditioned used pipe that has been tested to insure that it will meet American Petroleum Institute (API) standards for new pipe.

1.C. *Intermediate Casing.* This string of casing shall be set when required by anticipated abnormal pressure, mud weight, sediment, and other well conditions. The proposed setting depth for intermediate casing shall be based on the pressure tests of the exposed formation below the surface casing shoe *or on subsequent pressure tests.*

A quantity of cement sufficient to cover and isolate all hydrocarbon zones and to isolate abnormal pressure intervals from normal pressure intervals shall be used. If a liner is used as an intermediate string, the cement shall be tested by a fluid entry or pressure test to determine whether a seal between the liner top and the next larger string has been achieved. The test shall be recorded on the driller's log. When such liner is used as production casing, it shall be extended to the surface and cemented to avoid surface casing being used as production casing.

2.E. Testing. (1) B.O.P. Controls—A minimum of one operable remote blowout preventer control station shall be provided in addition to the primary blowout preventer control station on the drilling floor. Accumulators or accumulators and pumps shall maintain a pressure capacity reserve at all times to provide for repeated operation of hydraulic blowout preventers.

(2) Pressure Tests.—Ram-type blowout preventers and related control equipment shall be tested at the rated working pressure of the B.O.P. stack assembly, or at 70 percent of the minimum internal yield pressure of the casing, whichever is the lesser. Annular-type preventers shall be tested at 70 percent of the applicable above pressure test requirements. All preventers shall be tested (a) when installed, (b) before drilling out after each string of casing has been set, (c) not less than once each week, alternating between control stations, and (d) following repairs that require disconnecting a pressure seal in the assembly.

(3) Actuation.—While drill pipe is in use, the following actuation procedures shall be performed, as a minimum, to determine proper functioning of the blowout preventers and control stations:

Pipe Rams—Actuated daily.

Blind/Shear Rams—Actuated while drill pipe is out of the hole. Once each trip, but not more than once each day.

Tapered Drill String Pipe Rams—The smaller size pipe rams shall be actuated on the appropriate drill pipe size, once each trip.

Annular-Type Preventer—Actuated on the drill pipe, in conjunction with the pressure test, once each week.

Control Stations—Actuated while drill pipe is out of the hole, once each trip, but not more than once each day.

D. W. SOLANAS,
Oil and Gas Supervisor, Field Operations, Gulf of Mexico Area.

RUSSELL G. WAYLAND,
Acting Chief, Conservation Division.

[FR Doc.77-19615 Filed 7-8-77;8:45 am]

Geological Survey

COAL MINING PLAN, MONTANA

Availability of Proposed Decision for Mine Plan Submitted for Approval; Correction

In FR Doc. 77-17196, appearing at page 30695 in the FEDERAL REGISTER of June 16, 1977, the second paragraph, line 3 is corrected by the addition of Section 24 to the lands described. As corrected, line 3 of the second paragraph reads as follows:

"Sections 24, 25, and 26, T. 1 N., R. 37 E. The".

W. A. RADLINSKI,
Acting Director.

[FR Doc.77-19549 Filed 7-8-77;8:45 am]

Office of the Secretary

FEDERAL METAL AND NONMETAL MINE SAFETY AND HEALTH ADVISORY COMMITTEE

Revised Charter

On January 11, 1977, the Secretary of the Interior, with the concurrence of the Office of Management and Budget, renewed the Federal Metal and Nonmetal Safety Advisory Committee to assist the Secretary in the development and revision of safety standards for mines and mills and related matters as authorized by the Federal Metal and Nonmetallic Mine Safety Act. Notice of renewal was published in the FEDERAL REGISTER on January 19, 1977 (42 FR 3699). After consultation with the Office of Management and Budget, the charter for the Safety Advisory Committee has been revised to reinvest it with the authority to assist the Secretary in the development of health standards as well as safety standards and to change the name to the Federal Metal and Nonmetal Mine Safety and Health Advisory Committee.

Further information regarding this revision may be obtained from Herbert P. Levan, Executive Secretary, Federal Metal and Nonmetal Mine Safety and Health Advisory Committee, Metal and Nonmetal Mine Health and Safety, Mining Enforcement and Safety Administration, Room 702, Ballston Tower No. 3, 4015 Wilson Boulevard, Arlington, Virginia 22203 (703-235-8685).

I have determined that the Federal Metal and Nonmetal Mine Safety and Health Advisory Committee is in the public interest in connection with the administration of the Federal Metal and Nonmetallic Mine Safety Act by the Department of the Interior.

Dated: June 30, 1977.

CECIL D. ANDRUS,
Secretary of the Interior.

[FR Doc.77-19550 Filed 7-8-77;8:45 am]

NATIONAL COMMISSION ON ELECTRONIC FUND TRANSFERS

SHARING COMMITTEE

Meeting

The Sharing Committee of the National Commission on Electronic Fund Transfers will meet on Monday, July 18, 1977, at 10:00 A.M. in Room 4900, U.S. Postal Service, 475 L'Enfant Plaza, S.W., Washington, D.C. The purpose of the meeting is to discuss possible recommendations for dealing with potential sharing problems.

The meeting will be open to the public on a first-call basis to the extent that space permits. Interested persons should contact Ms. Janet Miller at (202) 254-7500 to check on the availability of space.

Dated: July 6, 1977.

JAMES O. HOWARD, JR.
General Counsel.

[FR Doc. 77-19614 Filed 7-8-77;8:45am]

NUCLEAR REGULATORY COMMISSION

ABNORMAL OCCURRENCE REPORT

Eighth Report Submitted to the Congress

Notice is hereby given that pursuant to the requirements of Section 208 of the Energy Reorganization Act of 1974, as amended, the Nuclear Regulatory Commission has published and issued the eighth periodic report to Congress on abnormal occurrences (NUREG-0090-7). The release date is June 30, 1977.

Under the Energy Reorganization Act of 1974, which created the NRC, an abnormal occurrence is defined as "an unscheduled incident or event which the Commission (NRC) determines is significant from the standpoint of public health or safety." The NRC has made a determination, based on criteria published in the FEDERAL REGISTER (42 FR 10950) on February 24, 1977, that events involving an actual loss or significant reduction in the degree of protection against radioactive properties of source, special nuclear, and byproduct materials are abnormal occurrences.

The eighth report to Congress is for the first quarter of 1977 and indicates that during this period:

(a) There were no abnormal occurrences at the 63 nuclear power plants licensed to operate.

(b) There were no abnormal occurrences at fuel cycle facilities (other than nuclear power plants).

(c) There was one abnormal occurrence at other licensee facilities. The event involved an inadvertent radiation exposure to two painters while working in an area where industrial radiography was being performed.

The incident involved temporary reductions in margins of safety normally provided.

The eighth report to the Congress also contains updating information on abnormal occurrences reported in previous reports.

The report does not contain information on activities in those states which have entered into agreements with the NRC for the assumption of certain regulatory authority pursuant to Section 274 of the Atomic Energy Act, as amended. Future reports will include Agreement State licensee activities as soon as procedures can be implemented.

Interested persons may review the report at the NRC's Public Document Room, 1717 H Street, NW., Washington, D.C. or at any of the 130 local Public Document Rooms throughout the country. The report, designated NUREG 0090-7, may be purchased from the National Technical Information Service, Springfield, Virginia 22161, at $3.50 a copy on or about July 14, 1977.

Dated at Washington, D.C., this 5th day of July, 1977.

For the Nuclear Regulatory Commission.

SAMUEL J. CHILK,
Secretary of the Commission.

[FR Doc.77-19669 Filed 7-8-77;8:45 am]

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS SUBCOMMITTEE ON BABCOCK AND WILCOX WATER REACTORS

Meeting

In accordance with the purposes of Sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232b.), the ACRS Subcommittee on Babock and Wilcox Water Reactors will hold a meeting on July 27, 1977, in Room 1062, 1717 H Street, NW., Washington, DC 20555. The purpose of this meeting is to review the application by the Babcock and Wilcox Company for preliminary design approval of their proposed standard plant design (BSAR-205).

The agenda for subject meeting shall be as follows:

Wednesday, July 27, 1977—8:30 a.m. until conclusion of business. The Subcommittee may meet in open Executive Session, with any of its consultants who may be present, to explore and exchange their preliminary opinions regarding matters which should be considered during the meeting and to formulate a report and recommendations to the full Committee.

At the conclusion of the Executive Session, the Subcommittee will meet in an open session to hear presentations by and hold discussions with representatives of the NRC Staff, the Babcock and Wilcox Company, and their consultants pertinent to this review.

At the conclusion of this session, the Subcommittee may caucus in an open session to determine whether the matters identified in the initial session have been adequately covered and whether the project is ready for review by the full Committee.

It may be necessary for the Subcommittee to hold one or more closed sessions for the purpose of exploring with representatives of the NRC Staff and Bacock & Wilcox matters involving proprietary information.

I have determined, in accordance with Subsection 10(d) of Public Law 92-463, that it is necessary to conduct the above closed sessions to protect proprietary information (5 U.S.C. 552 b(c)(4)).

Practical considerations may dictate alterations in the above agenda or schedule. The Chairman of the Subcommittee is empowered to conduct the meeting in a manner that, in his judgment, will facilitate the orderly con-

duct of business, including provisions to carry over an incompleted open session from one day to the next.

The Advisory Committee on Reactor Safeguards is an independent group established by Congress to review and report on each application for a construction permit and on each application for an operating license for a reactor facility and on certain other nuclear safety matters. The Committee's reports become a part of the public record. Although ACRS meetings are ordinarily open to the public and provide for oral or written statements to be considered as a part of the Committee's information gathering procedure concerning the health and safety of the public, they are not adjudicatory type hearings such as are conducted by the Nuclear Regulatory Commission's Atomic Safety & Licensing Board as part of the Commission's licensing process. ACRS meetings do not normally treat matters pertaining to environmental impacts outside the radiological safety area.

With respect to public participation in the open portion of the meeting, the following requirements shall apply:

(a) Persons wishing to submit written statements regarding the agenda may do so by providing a readily reproducible copy to the Subcommittee at the beginning of the meeting. Comments should be limited to safety related areas within the Committee's purview.

Persons desiring to mail written comments may do so by sending a readily reproducible copy thereof in time for consideration at this meeting. Comments postmarked no later than July 19, 1977 to Mr. Ragnwald Muller ACRS, NRC, Washington, DC 20055, will normally be received in time to be considered at this meeting.

(b) Persons desiring to make an oral statement at the meeting should make a written request to do so, identifying the topics and desired presentation time so that appropriate arrangements can be made. The Subcommittee will receive oral statements on topics relevant to its purview at an appropriate time chosen by the Chairman.

(c) Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call on July 25, 1977 to the Office of the Executive Director of the Committee (telephone 202/634-1413, Attn: Mr. Ragnwald Muller) between 8:15 a.m. and 5:00 p.m. EDT.

(d) Questions may be propounded only by members of the Subcommittee and its consultants.

(e) The use of still, motion picture, and television cameras, the physical installation and presence of which will not interfere with the conduct of the meeting, will be permitted both before and after the meeting and during any recess. The use of such equipment will not, however, be allowed while the meeting is in session. Recordings will be permitted only during those open sessions of the meeting when a transcript is being kept.

(f) Persons with agreements or orders permitting access to proprietary information may attend portions of ACRS meetings where this material is being discussed upon confirmation that such agreements are effective and relate to the material being discussed.

The Executive Director of the ACRS should be informed of such an agreement at least three working days prior to the meeting so that the agreement can be confirmed and a determination can be made regarding the applicability of the agreement to the material that will be discussed during the meeting. Minimum information provided should include information regarding the date of the agreement, the scope of material included in the agreement, the project or projects involved, and the names and titles of the persons signing the agreement. Additional information may be requested to identify the specific agreement involved. A copy of the executed agreement should be provided to Mr. Ragnwald Muller, of the ACRS Office, prior to the beginning of the meeting.

(g) A copy of the transcript of the open portion(s) of the meeting where factual information is presented and a copy of the minutes of the meeting will be available for inspection on or after August 2 and October 26, 1977, respectively, at the NRC Public Document Room, 1717 H Street, NW., Washington, DC 20555.

Copies may be obtained upon payment of appropriate charges.

Dated: July 7, 1977.

JOHN C. HOYLE,
Advisory Committee,
Management Officer.

[FR Doc.77-19871 Filed 7-8-77;8:45 am]

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS SUBCOMMITTEE ON EMERGENCY CORE COOLING SYSTEMS

Meeting

In accordance with the purposes of Sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232b.), the ACRS Subcommittee on Emergency Core Cooling Systems will hold an open meeting on July 26, 1977 in Room 1062, 1717 H St., N.W., Washington, D.C. 20555. The purpose of this meeting is to discuss possible changes to the Emergency Core Cooling System (ECCS) rule (10 CFR 50.46 and Appendix K to 10 CFR Part 50).

The agenda for subject meeting shall be as follows:

Tuesday, July 26, 1977—8:30 a.m. until conclusion of business. The Subcommittee may meet in Executive Session, with any of its consultants who may be present, to explore their preliminary opinions regarding matters which should be considered in order to formulate a report and recommendations to the full Committee.

At the conclusion of the Executive Session, the Subcommittee will meet to hear presentations by representatives of the NRC Staff, and their consultants, and will hold discussions with these groups pertinent to this review.

At the conclusion of this session, the Subcommittee may caucus in to determine whether the matters identified in the initial session have been adequately covered.

Practical considerations may dictate alterations in the above agenda or schedule. The Chairman of the Subcommittee is empowered to conduct the meeting in a manner that, in his judgment, will facilitate the orderly conduct of business, including provisions to carry over an incompleted session from one day to the next.

The Advisory Committee on Reactor Safeguards is an independent group established by Congress to review and report on each application for a construction permit and on each application for an operating license for a reactor facility and on certain other nuclear safety matters. The Committee's reports become a part of the public record. Although ACRS meetings are ordinarily open to the public and provide for oral or written statements to be considered as a part of the Committee's information gathering procedure concerning the health and safety of the public, they are not adjudicatory type hearings such as are conducted by the Nuclear Regulatory Commission's Atomic Safety & Licensing Board as part of the Commission's licensing process. ACRS meetings do not normally treat matters pertaining to environmental impacts outside the radiological safety area.

With respect to public participation in the meeting, the following requirements shall apply:

(a) Persons wishing to submit written statements regarding the agenda may do so by providing a readily reproducible copy to the Subcommittee at the beginning of the meeting. Comments should be limited to safety related areas within the Committee's purview.

Persons desiring to mail written comments may do so by sending a readily reproducible copy thereof in time for consideration at this meeting. Comments postmarked no later than July 19, 1977 to Mr. Thomas G. McCreless, ACRS, NRC, Washington, DC 20555, will normally be received in time to be considered at this meeting.

Persons desiring to make an oral statement at the meeting should make a written request to do so, identifying the topics and desired presentation time so that appropriate arrangements can be made. The Subcommittee will receive oral statements on topics relevant to its purview at an appropriate time chosen by the Chairman.

(b) Persons desiring to make an oral statement at the meeting should make a written request to do so, identifying the topics and desired presentation time so that appropriate arrangements can be made. The Subcommittee will receive oral statements on topics relevant to its purview at an appropriate time chosen, by the Chairman.

(c) Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call on July 25, 1977 to the Office of the Executive Director of the Committee (telephone 202/634-1374, Attn: Mr. Thomas G. McCreless) between 8:15 a.m. and 5:00 p.m., EDT.

(d) Questions may be propounded only by members of the Subcommittee and its consultants.

(e) The use of still, motion picture, and television cameras, the physical installation and presence of which will not interfere with the conduct of the meeting, will be permitted both before and after the meeting and during any recess. The use of such equipment will not, however, be allowed while the meeting is in session. Recordings will be permitted only during those sessions of the meeting when a transcript is being kept.

(f) A copy of the transcript of the meeting where factual information is presented and a copy of the minutes of the meeting will be available for inspection on or after August 2 and October 26, 1977, respectively, at the NRC Public Document Room 1717 H Street, N.W., Washington, DC 20555.

Copies may be obtained upon payment of appropriate charges.

Dated: July 6, 1977.

JOHN C. HOYLE,
Advisory Committee,
Management Officer.

[FR Doc.77-19874 Filed 7-8-77;8:45 am]

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS WORKING GROUP NO. 3 OF THE SUBCOMMITTEE ON REACTOR SAFETY RESEARCH

Meeting

In accordance with the purposes of Sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232b.), Working Gruop No. 3 of the ACRS Subcommittee on Reactor Safety Research will hold an open meeting on July 28, 1977 in Room 1046, 1717 H St., N.W., Washington, DC 20555. The purpose of this meeting is to review matters pertaining to the scope of the site safety research currently being performed and planned by the NRC.

The agenda for subject meeting shall be as follows:

Thursday, July 28, 1977—8:30 a.m. until conclusion of business. The Working Group may meet in Executive Session, with any of its consultants who may be present, to explore their preliminary opinions regarding matters which should be considered in order to formulate a report and recommendations to the full Committee.

At the conclusion of the Executive Session, the Working Group will meet to hear presentations by representatives of the NRC Staff and their consultants, and will hold discussions with these groups pertinent to this review.

At the conclusion of this session, the Working Group may caucus in to determine whether the matters identified in the initial session have been adequately covered.

Practical considerations may dictate alterations in the above agenda or schedule. The Chairman of the Working Group is empowered to conduct the meeting in a manner that, in his judgment, will facilities the orderly conduct of business, including provisions to carry over an incompleted session from one day to the next.

The Advisory Committee on Reactor Safeguards is an independent group established by Congress to review and report on each application for a construction permit and on each application for an operating license for a reactor facility and on certain other nuclear safety matters. The Committee's reports become a part of the public record. Although ACRS meetings are ordinarily open to the public and provide for oral or written statements to be considered as a part of the Committee's information gathering procedure concerning the health and safety of the public, they are not adjudicatory type hearings such as are conducted by the Nuclear Regulatory Commission's Atomic Safety & Licensing Board as part of the Commission's licensing process. ACRS meetings do not normally treat matters pertaining to environmental impacts outside the radiological safety area.

With respect to public participation in the meeting, the following requirements shall apply:

(a) Persons wishing to submit written statements regarding the agenda may do so by providing a readily reproducible copy to the Working Group at the beginning of the meeting. Comments should be limited to safety related areas within the Committee's purview.

Persons desiring to mail written comments may do so by sending a readily reproducible copy thereof in time for consideration at this meeting. Comments postmarked no later than July 21, 1977 to Dr. Richard Savio, ACRS, NRC, Washington, D.C. 20555, will normally be received in time to be considered at this meeting.

Persons desiring to make an oral statement at the meeting should make a written request to do so, identifying the topics and desired presentation time so that appropriate arrangements can be made. The Working Group will receive oral statements on topics relevant to its purview at an appropriate time chosen by the Chairman.

(b) Persons desiring to make an oral statement at the meeting should make a written request to do so, identifying the topics and desired presentation time so that appropriate arrangements can be made. The Working Group will receive oral statements on topics relevant to its purview at an appropriate time chosen by the Chairman.

(c) Further information regarding topics to be discussed whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call on July 27, 1977 to the Office of the Executive Director of the Committee (telephone 202/634-1394, Attn: Dr. Richard Savio) between 8:15 a.m. and 5:00 p.m., EDT.

(d) Questions may be propounded only by members of the Working Group and its consultants.

(e) The use of still, motion picture, and television cameras, the physical installation and presence of which will not interfere with the conduct of the meeting, will be permitted both before and after the meeting and during any recess. The use of such equipment will not, however, be allowed while the meeting is in session. Recordings will be permitted only during those sessions of the meeting when a transcript is being kept.

(f) A copy of the transcript of the meeting where factual information is presented and a copy of the minutes of the meeting will be available for inspection on or after August 4 and October 28, 1977, respectively, at the NRC Public Document Room 1717 H Street, N.W., Washington, DC 20555.

Copies may be obtained upon payment of appropriate charges.

Dated: July 7, 1977.

JOHN C. HOYLE,
Advisory Committee
Management Officer.

[FR Doc.77-19873 Filed 7-8-77;8:45 am]

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS WORKING GROUP NO. 5 OF THE SUBCOMMITTEE ON REACTOR SAFETY RESEARCH

Meeting

In accordance with the purposes of Sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232b.), Working Group No. 5 of the ACRS Subcommittee on Reactor Safety Research will hold a meeting on July 27, 1977 in Room 1046, 1717 H St., NW., Washington, DC 20555. The purpose of this meeting is to review research needs and progress in the areas of fuel cycle development, health and environmental factors, and material safeguards.

The agenda for subject meeting shall be as follows:

Wednesday, July 27, 1977—8:30 a.m. until conclusion of business. The Working Group may meet in open Executive Session, with any of its consultants who may be present, to explore their preliminary opinions regarding matters which should be considered in order to formulate a report and recommendations to the full Committee.

At the conclusion of the Executive Session, the Working Group will meet in open session to hear presentations by representatives of the NRC Staff, the Energy Research and Development Administration (ERDA), and their consultants, and will hold discussions with these groups pertinent to this review.

At the conclusion of this session, the Working Group may caucus in an open session to determine whether the mat-

ters identified in the initial session have been adequately covered and whether the project is ready for review by the full Committee.

It may be necessary for the Working Group to hold one or more closed sessions for the purpose of exploring with representatives of the NRC Staff and ERDA matters involving classified or proprietary information.

I have determined, in accordance with Subsection 10(d) of Public Law 92–463, that it is necessary to conduct the above closed sessions to protect classified or proprietary information (5 U.S.C. 552b (c)(1) and (4)).

Practical considerations may dictate alterations in the above agenda or schedule. The Chairman of the Working Group is empowered to conduct the meeting in a manner that, in his judgment, will facilitate the orderly conduct of business, including provisions to carry over an incompleted open session from one day to the next.

The Advisory Committee on Reactor Safeguards is an independent group established by Congress to review and report on each application for a construction permit and on each application for an operating license for a reactor facility and on certain other nuclear safety matters. The Committee's reports become a part of the public record. Although ACRS meetings are ordinarily open to the public and provide for oral or written statements to be considered as a part of the Committee's information gathering procedure concerning the health and safety of the public, they are not adjudicatory type hearings such as are conducted by the Nuclear Regulatory Commission's Atomic Safety & Licensing Board as part of the Commission's licensing process. ACRS meetings do not normally treat matters pertaining to environmental impacts outside the radiological safety area.

With respect to public participation in the open portion of the meeting, the following requirements shall apply:

(a) Persons wishing to submit written statements regarding the agenda may do so by providing a readily reproducible copy to the Working Group at the beginning of the meeting. Comments should be limited to safety related areas within the Committee's purview.

Persons desiring to mail written comments may do so by sending a readily reproducible copy thereof in time for consideration at this meeting. Comments postmarked no later than July 20, 1977 to Mr. John C. McKinley, ACRS, NRC, Washington, DC 20555, will normally be received in time to be considered at this meeting.

(b) Persons desiring to make an oral statement at the meeting should make a written request to do so, identifying the topics and desired presentation time so that appropriate arrangements can be made. The Working Group will receive oral statements on topics relevant to its purview at an appropriate time chosen by the Chairman.

(c) Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call on July 26, 1977 to the Office of the Executive Director of the Committee (telephone 202/634–1374, Attn: Mr. John C. McKinley) between 8:15 a.m. and 5:00 p.m., EDT.

(d) Questions may be propounded only by members of the Working Group and its consultants.

(e) The use of still, motion picture, and television cameras, the physical installation and presence of which will not interfere with the conduct of the meeting, will be permitted both before and after the meeting and during any recess. The use of such equipment will not, however, be allowed while the meeting is in session. Recordings will be permitted only during those open sessions of the meeting when a transcript is being kept.

(f) Persons with agreements or orders permitting access to proprietary information may attend portions of ACRS meetings where this material is being discussed upon confirmation that such agreements are effective and relate to the material being discussed.

The Executive Director of the ACRS should be informed of such an agreement at least three working days prior to the meeting so that the agreement can be confirmed and a determination can be made regarding the applicability of the agreement to the material that will be discussed during the meeting. Minimum information provided should include information regarding the date of the agreement, the scope of material included in the agreement, the project or projects involved, and the names and titles of the persons signing the agreement. Additional information may be requested to identify the specific agreement involved. A copy of the executed agreement should be provided to Mr. John C. McKinley, of the ACRS Office, prior to the beginning of the meeting.

(g) A copy of the transcript of the open portion(s) of the meeting where factual information is presented and a copy of the minutes of the meeting will be available for inspection on or after August 3 and October 27, 1977, respectively, at the NRC Public Document Room, 1717 H Street, NW., Washington, DC 20555.

Copies may be obtained upon payment of appropriate charges.

Dated: July 7, 1977.

JOHN C. HOYLE,
Advisory Committee Management Officer.

[FR Doc.77-19872 Filed 7-8-77;8:45 am]

[Docket No. 50-293]

BOSTON EDISON CO.

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 25 to Facility Operating License No. DPR–35, issued to Boston Edison Company (the licensee), which revised Technical Specifications for operation of Unit No. 1 of the Pilgrim Nuclear Power Station (the Facility) located near Plymouth, Massachusetts. The amendment is effective as of its date of issuance.

The amendment authorized operation of the reactor beyond the previously analyzed end-of-cycle scram reactivity conditions and is based upon new analyses.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission's has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated April 28, 1977, (2) Amendment No. 25 to License No. DPR–35, and (3) the Commission's concurrently issued related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Plymouth Public Library on North Street in Plymouth, Massachusetts 02360. A single copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 28th day of June, 1977.

For the Nuclear Regulatory Commission.

DON K. DAVIS,
Acting Chief, Operating Reactors Branch No. 2, Division of Operating Reactors.

[FR Doc.77-19466 Filed 7-8-77;8:45 am]

[Dockets Nos. 50-325, 324]

CAROLINA POWER AND LIGHT CO.

Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 6 to Facility Operating License No. DPR–71 and Amendment No. 28 to Facility Operating License No. DPR–62, issued to Carolina Power and Light Company (the licensee), which revised Technical Specifications for operation of Brunswick Steam Electric Plant, Units Nos. 1 and 2 (the facility) located

in Brunswick County, North Carolina. The amendments are effective as of the date of issuance.

The amendments revise the off-site corporate organization for facility management and technical support, and make several editorial changes to the administrative sections of the Technical Specifications to reflect the revised organization.

The application for the amendments comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) the application for amendment dated March 21, 1977, (2) Amendment No. 6 to License No. DPR-71, (3) Amendment No. 28 to License No. DPR-62, and (4) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Southport-Brunswick County Library, 109 West Moore Street Southport, North Carolina 28461. A copy of items (2), (3) and (4) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 20th day of June 1977.

For the Nuclear Regulatory Commission.

CHARLES M. TRAMMELL,
Acting Chief, Operating Reactors Branch No. 1, Division of Operating Reactors.

[FR Doc.77-19467 Filed 7-8-77;8:45 am]

[Docket No. 50-247]

CONSOLIDATED EDISON CO. OF NEW YORK, INC.

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 31 to Facility Operating License No. DPR-26, issued to Consolidated Edison Company of New York, Inc. (the licensee), which revised Technical Specifications for operation of the Indian Point Nuclear Generating Unit No. 2 (the facility) located in Buchanan, Westchester County, New York. The amendment is effective as of its date of issuance.

The amendment establishes provisions in the Technical Specifications for steam generator tube inspection that are consistent with the guidance contained in Regulatory Guide 1.83, Revision 1, dated July 1975.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter 1, which are set forth in the license amendment. Prior public notice of this amendments was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, negative declaration or environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment transmitted by letter dated December 9, 1976, (2) Amendment No. 31 to License No. DPR-26, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Hendrick Hudson Free Library, 31 Albany Post Road, Montrose, New York. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 28th day of June 1977.

For the Nuclear Regulatory Commission.

ROBERT W. REID,
Chief, Operating Reactors Branch No. 4, Division of Operating Reactors.

[FR Doc.77-19697 Filed 7-8-77;8:45 am]

[Docket No. 50-155]

CONSUMERS POWER CO.

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 14 to Facility Operating License No. DPR-6, issued to the Consumers Power Company (the licensee), which revised Technical Specifications for operation of the Big Rock Point Plant (the facility) located in Charlevoix County, Michigan. The amendment is effective as of its date of issuance.

The amendment revised the Technical Specifications for the facility to (1) incorporate reactor vessel pressure temperature operating limits that comply with Appendix G of 10 CFR Part 50, (2) authorize automatic bypassing of the high condenser pressure reactor trip anytime steam drum pressures are less than 50 psig instead of the current 350 psig reactor coolant pressure limit, (3) define the administrative control requirements associated with the air ejector off-gas monitoring system, (4) correct an error in chloride ion concentration limit in the primary coolant, and (5) delete the 100-inch per minute limitation on winch speed during refueling operations.

The applications for the amendment comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5 (d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the applications for amendment dated May 30, 1975 (as supplemented by letter dated June 30, 1975), September 10, 1975 (as supplemented by letter dated May 25, 1977), May 26, 1976, April 21, 1977, and May 18, 1977, (2) Amendment No. 14 to License No. DPR-6, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Charlevoix Public Library, 107 Clinton Street, Charlevoix, Michigan 49720.

A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 24th day of June 1977.

For the Nuclear Regulatory Commission.

DON K. DAVIS,
Acting Chief, Operating Reactors Branch No. 2, Division of Operating Reactors.

[FR Doc.77-19469 Filed 7-8-77;8:45 am]

[Docket No. 50-341-A]

DETROIT EDISON CO.

Receipt of Additional Antitrust Information; Time for Submission of Views on Antitrust Matters

The Detroit Edison Company (the applicant), pursuant to Section 103 of the

Atomic Energy Act of 1954, as amended, filed on May 6, 1977 an amendment to their application, in connection with their plans to construct and operate the Enrico Fermi Atomic Power Plant, Unit 2, a boiling water nuclear reactor (the facility), located on the applicant's site in Frenchtown Township, Monroe County, Michigan, at a steady-state power level of 3292 megawatts thermal. The portion of the application filed contains the information requested by the Attorney General for the purpose of an antitrust review of the application as set forth in 10 CFR Part 50, Appendix L.

The original antitrust portion of the application was submitted on April 29, 1969 by the Detroit Edison Company. The Notice of Receipt of the Antitrust Application was published in the FEDERAL REGISTER on February 19, 1971 (34 FR 3213).

A copy of the application and the amendments thereto are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555 and at the Monroe County Library System, Reference Department, 3700 South Custer Road, Monroe, Michigan 48161.

Any person who wishes to have his views on the antitrust matters with respect to the Wolverine Electric Cooperative and the Northern Michigan Electric Cooperative presented to the Attorney General for consideration should submit such views to the U.S. Nuclear Regulatory Commission, Attention: Chief, Office of Antitrust and Indemnity, Office of Nuclear Reactor Regulation, on or before September 9, 1977.

Dated at Bethesda, Maryland, this 5th day of July 1977.

For the Nuclear Regulatory Commission.

JOHN F. STOLZ,
Chief, Light Water Reactors Branch No. 1, Division of Project Management.

[FR Doc.77-19696 Filed 7-8-77;8:45 am]

[Dockets Nos. 50-269, 50-270, and 50-287]

DUKE POWER CO.

Issuance of Amendments to Facility Operating Licenses and Negative Declaration

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendments Nos. 41, 41, and 38 to Facility Operating Licenses Nos. DPR-38, DPR-47, and DPR-55, respectively, issued to Duke Power Company (the licensee), which revised Technical Specifications for operation of the Oconee Nuclear Station Units Nos. 1, 2, and 3, (the facilities) located in Oconee County, South Carolina. The amendments are effective within 30 days after the date of issuance.

The amendments revise the common Technical Specifications to (1) allow a 72 hour period to restore operability of at least one of two redundant sources of concentrated boric acid and a one hour period to restore the borated water storage tank to operability if they should become unavailable, (2) allow a two hour period for restoration of control rod group overlap, (3) provide a clearer definition of xenon reactivity passing its final peak prior to increasing reactor power above the power level cutoff, (4) allow use of a key-operated shutdown bypass switch during power operation, (5) provide a change in reporting requirements whenever a measured level of radioactivity in any environmental medium exceeds the control station value, and (6) provide administrative changes.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of the amendments.

For further details with respect to this action, see (1) the application for amendment dated November 1, 1976, (2) Amendments Nos. 41, 41 and 38 to Licenses Nos. DPR-38, DPR-47, and DPR-55, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the Oconee County Library, 201 South Spring Street, Walhalla, South Carolina 29691. A copy of items (2), (3), and (4) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 16th day of June 1977.

For the Nuclear Regulatory Commission.

A. SCHWENCER,
Chief, Operating Reactors Branch No. 1, Division of Operating Reactors.

[FR Doc.77-19470 Filed 7-8-77;8:45 am]

[Docket No. 50-335]

FLORIDA POWER & LIGHT CO.

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 15 to Facility Operating License No. DPR-67, issued to Florida Power & Light Company (the licensee), which revised the Technical Specifications for operation of the St. Lucie Plant Unit No. 1 (the facility) located in St. Lucie County, Florida. The amendment is effective as of its date of issuance.

The amendment modified the Technical Specifications to authorize a 48-hour bypass period of any one of the four Reactor Protection Systems (RPS) channels and any one of the four Engineered Safety Feature Actuation System (ESFAS) channels for testing and maintenance.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated April 20, 1976, (2) Amendment No. 15 to License No. DPR-67, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the Indian River Junior College Library, 3209 Virginia Avenue, Ft. Pierce, Florida 33450. A single copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 28th day of June 1977.

For the Nuclear Regulatory Commission.

DON K. DAVIS,
Acting Chief, Operating Reactors Branch No. 2, Division of Operating Reactors.

[FR Doc.77-19471 Filed 7-8-77;8:45 am]

[Dockets Nos. 50-245 and 50-336]

NORTHEAST NUCLEAR ENERGY CO., ET AL.

Issuance of Amendment to Facility Operating License and Negative Declaration

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 39 to Provisional Operating License No. DPR-21 and Amendment No. 30 to Facility Operating License No. DPR-65 to Northeast Nuclear

Energy Company, The Connecticut Light and Power Company, the Hartford Electric Light Company, and Western Massachusetts Electric Company, which revised Environmental Technical Specifications for operation of the Millstone Nuclear Power Station, Units Nos. 1 and 2, located in the Town of Waterford, Connecticut. The amendments are effective as of their date of issuance.

These amendments will allow an increase in the spent fuel storage capability in the spent fuel pools (SFPs) through the use of high density spent fuel racks. The storage capability for Millstone Unit No. 1 will increase from 1,100 to 2,184 fuel assemblies while the capability for Unit No. 2 will be increased from 301 to 667 fuel assemblies.

The applications for the amendment comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Notices of Proposed Issuance of Amendments to Facility Operating License in connection with this action were published in the FEDERAL REGISTER on September 30, 1976 (41 FR 43257) and December 23, 1976 (41 FR 55953). No request for a hearing or petition for leave to intervene was filed following notice of the proposed action.

The Commission has prepared an environmental impact appraisal for the revised Technical Specifications and has concluded that an environmental impact statement for this particular action is not warranted because there will be no environmental impact attributable to the action other than that which has already been predicted and described in the Commission's Final Environmental Statement for the facility dated June 1973.

For further details with respect to this action, see (1) the applications for amendment dated July 15, 1976 (supplemented by letter dated December 3, 1977) and November 22, 1976 (supplemented by February 4, 1977 and May 16, 1977 letters), (2) Amendments Nos. 39 and 30 to Licenses Nos. DPR-21 and DPR-65, and (3) the Commission's related Safety Evaluation and Environmental Impact Appraisal. All of these items are available for public inspection at the Commission's Public Document Room, 117 H Street NW., Washington, D.C. and at the Waterford Public Library, Rope Ferry Road, Route 156, Waterford, Connecticut. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 30 day of June 1977.

For the Nuclear Regulatory Commission.

GEORGE LEAR,
Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.

[FR Doc.77-19698 Filed 7-8-77;8:45 am]

[Docket Nos. STN 50-580, STN 50-581]

OHIO EDISON CO., ET AL. (ERIE NUCLEAR PLANT, UNITS 1 AND 2)

Order Relative to Special Prehearing Conference

Before the Atomic Safety and Licensing Board.

In accordance with 10 CFR 2.751a, a special prehearing conference will be held at the Lorain City Hall Council Chamber, 200 West Erie Avenue, Lorain, Ohio, at 10 a.m. (local time) on July 28, 1977. The purpose of the conference is to consider the following:

(1) Permit identification of the key issues in the proceeding;

(2) Take any steps necessary for further identification of the issues;

(3) Consider all intervention petitions to allow the presiding officer to make such preliminary or final determination as to the parties to the proceeding, as may be appropriate; and

(4) Establish a schedule for further actions in the proceeding.

The Board will invite each petitioner to further explain his or her "interest" and each contention submitted. It will also expect the Applicant and NRC Staff to respond to each explanation. The Board suggests that the Applicant and NRC Staff meet with petitioners prior to the prehearing conference to effect possible reconciliation of any differences which may exist. The Board will not consider granting any petitioner time to amend a petition until it has the additional information developed at the prehearing conference.

The public in invited to attend. Limited appearance statements will not be called for at the prehearing conference but will be invited at the subsequent evidentiary hearing.

Dated at Bethesda, Maryland, this 1st day of July 1977.

It is so ordered.

For the Atomic Safety and Licensing Board.

ELIZABETH S. BOWERS,
Chairman.

[FR Doc.77-19494 Filed 7-8-77;8:45 am]

[Dockets Nos. 50-277 and 50-278]

PHILADELPHIA ELECTRIC CO. ET AL.

Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendments No. 35 and 35 to Facility Operating Licenses Nos. DPR-44 and DPR-56, respectively, issued to Philadelphia Electric Company, Public Service Electric and Gas Company, Delmarva Power and Light Company, and Atlantic City Electric Company, which revised Technical Specifications for operation of the Peach Bottom Atomic Power Station, Units Nos. 2 and 3, located in Peach Bottom, York County, Pennsylvania. The amendments are effective as of the date of issuance.

These amendments to the Technical Specifications will modify the method of testing the operability of relief valves at Units Nos. 2 and 3.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) the application for amendments dated March 8, 1977, (2) Amendments Nos. 35 and 35 to License Nos. DPR-44 and DPR-56, and (3) the Commission's elated Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the Martin Memorial Library, 159 E. Market Street, York, Pennsylvania 17401. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C,. 20555. Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 30th day of June 1977.

For the Nuclear Regulatory Commission.

GEORGE LEAR,
Chief of Operating Reactors Branch No. 3, Diviseion of Operating Reactors.

[FR Doc.77-19472 Filed 7-8-77;8:45 am]

[Docket Nos. STN 50-556, STN 50-557]

PUBLIC SERVICE COMPANY OF OKLAHOMA, ASSOCIATED ELECTRIC COOPERATIVE, INC., AND WESTERN FARMERS ELECTRIC COOPERATIVE, INC. (BLACK FOX STATION, UNITS 1 AND 2)

Notice and Order Setting Evidentiary Hearing on Environmental and Site Suitability Issues

Before the Atomic Safety and Licensing Board.

The U.S. Nuclear Regulatory Commission (the Commission) by its January 19, 1976, "Notice of Hearing on Application for Construction Permits" (41 FR 3515), ordered a hearing be held on the application by Public Service Company of Oklahoma and the Associated Electric Cooperative, Inc. (hereinafter referred to as Applicant),[1] to construct two boiling water nuclear reactors designated as the Black Fox Station, Units 1 and 2 (the facility). The facility is proposed to be located in the Township of Inola, Oklahoma, approximately 23 miles east of Tulsa, on the east side of the Verdigris River in Rogers County. This hearing will be evidentiary in nature and will be conducted pursuant to the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2011, et seq., the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321, et seq., and the Commission's Rules and Regulations as set out in Title 10, Code of Federal Regulations (CFR).

The hearing on this application will be conducted by an Atomic Safety and Licensing Board which is composed of Dr. Paul W. Purdom and Mr. Frederick J. Shon as technically qualified members, and Mr. Sheldon J. Wolfe as chairman.

The Applicant on January 7, 1977, submitted a "Motion to Consider Issues Relevant to Limited Work Authorization" in which it moved the Board to hear and consider such evidence at the environmental and site suitability hearing as may be necessary to make those findings set forth in 10 CFR 50.10(e)(2). This motion was granted by the Board at the Third Prehearing Conference (Tr. 327-329) which action was set out in the Third Prehearing Conference Order of March 9, 1977. Since all health and safety issues are not currently ready for adjudication, the evidentiary hearing provided for in this Notice and Order shall be a separate hearing on environmental and site suitability matters pursuant to 10 CFR 2.761a. Specifically, in its Partial Initial Decision resulting from this separate hearing, the Board will rule on the following issues:

1. Decide those matters in controversy among the parties which are within the scope of NEPA and 10 CFR 51;

2. Determine whether the requirements of Section 102(2) (A), (C), and (D) of NEPA and 10 CFR Part 51 have been complied with in this proceeding;

3. Independently consider the final balance among conflicting factors contained in the record of the proceeding with a view to determining the appropriate action to be taken;

4. After weighing the environmental economic, technical, and other benefits against the environmental and other costs, and considering the available alternatives, determine whether the construction permits should be issued, denied, or appropriately conditioned to protect environmental values;

5. Determine whether, in accordance with 10 CFR Part 51, the construction permits should be issued as proposed;

6. Determine whether, based on the available information and review to date, there is reasonable assurance that the proposed site is a suitable location for a nuclear power reactor of the general size and type proposed from the standpoint of radiological, health and safety considerations under the Atomic Energy Act and under the Rules and Regulations promulgated by the Commission pursuant thereto.

Accordingly, please take notice and *it is hereby ordered* That the evidentiary hearing on the environmental and site suitability issues specified above is scheduled to begin at 1 p.m. on August 22, 1977, in the main conference room, Room 211, of the U.S. Army Corps of Engineers, Tulsa District, 224 South Boulder, Tulsa, Oklahoma. The hearing will continue through August 26, 1977, beginning at 9:30 a.m. The hearing will resume on August 29, 1977 at 1 p.m. and will continue through September 2, 1977, beginning at 9:30 a.m. If necessary to complete the taking of evidence, the hearing will resume on September 6, 1977 at 1 p.m. and will continue through September 9, 1977, beginning at 9:30 a.m.

Members of the public are invited to attend this evidentiary hearing. Pursuant to 10 CFR 2.715(a), individuals or organizations wishing to make limited appearances will be permitted to do so after opening statements (if any) by the parties have been concluded. Oral statements will be limited to five (5) minutes each but written statements may be submitted without limitations on length.

Dated at Bethesda, Maryland, this 1st day of July 1977.

For the Atomic Safety and Licensing Board.

SHELDON J. WOLFE, ESQ.,
Chairman.

[FR DOC.77-19495 Filed 7-8-77;8:45 am]

[1] Subsequently Western Farmers Electric Cooperative, Inc., became a co-owner in the facility and an "Amended Notice of Hearing Application for Construction Permits" was issued October 20, 1976.

[Docket Nos. 50-553, 50-554]

TENNESSEE VALLEY AUTHORITY (PHIPPS BEND NUCLEAR PLANT, UNITS 1 AND 2)

Oral Argument

Notice is hereby given that, in accordance with the Appeal Board's order of June 30, 1977, oral argument on the ruling contained in LBP-77-14, 5 NRC 494, which was referred to the Appeal Board by the Licensing Board's April 20, 1977, order, is calendared for 10:00 a.m. on Wednesday, September 7, 1977, in the Nuclear Regulatory Commission's Public Hearing Room, 5th floor, East-West Towers, 4350 East West Highway, Bethesda, Maryland.

Dated: July 1, 1977.

For the Atomic Safety and Licensing Appeal Board.

ROMAYNE M. SKRUTSKI,
Secretary to the Appeal Board.

[FR Doc.77-19473 Filed 7-8-77;8:45 am]

[Docket Nos. 50-553; 50-554]

TENNESSEE VALLEY AUTHORITY (PHIPPS BEND NUCLEAR PLANT, UNITS 1 AND 2)

Order for Evidentiary Hearing

The evidentiary hearing in this matter will commence on Wednesday, July 13, 1977, at 9:30 a.m., at the Kingsport Civic Auditorium (Club Room), 1550 Memorial Boulevard, Kingsport, Tennessee. Limited appearances will be received at that time.

It is so ordered.[1]

Dated at Bethesda, Maryland this 1st day of July 1977.

The Atomic Safety and Licensing Board.

EDWARD LUTON,
Chairman.

[FR Doc.77-19695 Filed 7-8-77;8:45 am]

[Docket Nos. STN 50-518, STN 50-519, and STN 50-520 and STN 50-521]

TENNESSEE VALLEY AUTHORITY; HARTSVILLE NUCLEAR PLANTS, UNITS 1A, 2A, 1B & 2B

Reconstitution of Atomic Safety and Licensing Appeal Board

Notice is hereby given that, in accordance with the authority in 10 CFR 2.787 (a), the Chairman of the Atomic Safety and Licensing Appeal Panel has reconstituted the Atomic Safety and Licensing Appeal Board for this construction permit proceeding to consist of the following members:

Alan S. Rosenthal, Chairman, Dr. John H. Buck, Jerome E. Sharfman.

Dated: July 1, 1977.

ROMAYNE M. SKRUTSKI,
Secretary to the Appeal Board.

[FR Doc.77-19699 Filed 7-8-77;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-13708; File No. SR-Amex-77-14]

AMERICAN STOCK EXCHANGE, INC.

Self-Regulatory Organization; Proposed Rule Change

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on June 15,

[1] See 42 FR 21672, April 28, 1977.

1977, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission the following proposed rule changes:

THE AMERICAN STOCK EXCHANGE'S STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

The American Stock Exchange, Inc. (the "Amex") proposes to amend Article II, Section 2 of the Exchange Constitution to bring it into compliance with the Act. The text of the proposed amendments is as follows and the terms of substance are summarized in the following section of this notice.

TEXT OF PROPOSED RULE CHANGE

(deletions [bracketed], additions *italicized*)

Article II, Section 2 is amended to read as follows:

Transactions in Exchange Securities.

The Board shall have the power to require, *to the extent not inconsistent with the Securities Exchange Act of 1934, as amended,* that transactions in which members participate, in securities admitted to dealings upon the Exchange shall be made or executed upon the Exchange.

Members, member firms, member corporations and approved persons. The Board shall have general supervision over members, member firms and member corporations, and shall have general supervision over approved persons in connection with their conduct of the business of member corporations. The board may examine into and regulate the conduct and financial condition of members, member firms, member corporations and approved persons. It shall have supervision over and may adopt such rules as it may deem necessary or proper with respect to the formation of member firms and member corporations, the continuance thereof, the finances and capital requirements thereof, the types, terms, conditions and issuance of securities by member firms and member corporations and trading in such securities, the interest of members and other persons in member firms and member corporations, the partners, officers, directors, stockholders and employees of members, member firms and member corporations, the offices of members, member firms and member corporations, and their association with or domination by or over any corporations, firms or persons engaged in the securities business. The Board, *to the extent not inconsistent with the Securities Exchange Act of 1934, as amended,* shall have supervision over all matters relating to the collection, dissemination and use of quotations and of reports of prices on the Exchange and may grant to the Chairman, or to such officer or officers of the Exchange as he may designate, the authority to approve or disapprove any application for ticker or quotation service to any non-member[,]. [or for telephone or telegraphic wire, wireless or other connection between any office of any member or member firm or member corporation and the office of any corporation, firm or individual, whether or not a member of the Exchange, and to require at any time the discontinuance of any such service or connection.] The Board may grant to the Chairman, or such officer or officers of the Exchange as he may designate, the authority to approve or disapprove of any connection or means of communication with the Floor and to require at any time the discontinuance of any such connection or means of communication [,] *if such connection or means of communication has been or is being used to facilitate any violation of the Securities Exchange Act of 1934, as amended, or rules thereunder, the Exchange Constitution or its Rules, or just and equitable principles of trade.* The Board shall establish standards and requirements for the registration of regular members as specialists or odd-lot dealers in securities dealt in on the Exchange, and may grant to a committee or committees, the authority to (i) approve the registration of regular members as specialists or odd-lot dealers, (ii) revoke or suspend any such registration at any time, (iii) allocate to a registered specialist or odd-lot dealer any security dealt in on the Exchange, and (iv) revoke any such allocation, temporarily or permanently, at any time.

AMEX'S STATEMENT OF BASIS AND PURPOSE

In December 1976, the Commission notified the Exchange by letter pursuant to section 31(b) of the 1975 Securities Acts Amendments that certain of its Constitutional and rule provisions appeared not to comply with the amended Exchange Act. The proposed amendments to Article II, Section 2 of the Exchange Constitution outlined below are designed to bring this provision into compliance with the Act.

(a) *Article II, Section 2—Transactions in Exchange Securities.* Article II, Section 2 authorizes the Board to require that member transactions in Exchange-listed securities be executed on the Exchange. The Exchange proposes to amend this provision to provide that the authority in question can be exercised only "to the extent not inconsistent with the Securities Exchange Act of 1934, as amended".

(b) *Article II, Section 2—Members, member firms, member corporations and approved persons.* Article II, Section 2 also authorizes the Board (1) to supervise all matters relating to the collection, dissemination, and use of quotation and last sale information (including approval of non-member applications for quotation and last sale services) and (2) to approve and discontinue all communication devices connecting members' offices and the Floor and/or members' and non-members' offices.

The Exchange believes that the Board's power to supervise the use of quotation and last-sale information may properly be retained. However, since under the amended Exchange Act the SEC has jurisdiction over the distribution of such information, it would appear to be appropriate to amend the Constitution to permit exercise of the Board's authority only "to the extent not inconsistent with the Securities Exchange Act of 1934 as amended".

While physical limitations of Exchange floor facilities and the need to regulate potential abuses make it reasonable for the Exchange to retain in Article II, Section 2 the authority to regulate wire communications to the Floor, the development and adoption of reasonable standards for discontinuing such services, aimed at preventing fraud and manipulation, are appropriate. The proposed amendment to Article II, Section 2 would authorize the Exchange to discontinue a Floor wire "if such connection or means of communication has been or is being used to facilitate any violation of the Securities Exchange Act of 1934, as amended, or rules thereunder, the Exchange Constitution or its Rules, or just and equitable principles of trade". However, a different approach is appropriate for systems connecting members' and non-members' offices. The Exchange proposes to delete this portion of Article II, Section 2.

The Exchange believes the basis under the Act for the proposed amendments to Article II, Section 2 of the Exchange's Constitution is as follows:

(a) *Article II, Section 2—Transactions in Exchange Securities.* The amendment, which would permit exercise of the Board's authority to prohibit off-board trading only "to the extent not inconsistent with the Securities Exchange Act of 1934, as amended", is proposed to enable the Exchange to comply with the amended Exchange Act and rules thereunder, and is consistent with Section 6(b)(1) of the Act.

(b) *Article II, Section 2—Members, member firms, member corporations and approved persons.* The amendment, permitting exercise of the Board's authority over quotation and last-sale information only "to the extent not inconsistent with the Securities Exchange Act of 1934, as amended", is proposed to enable the Exchange to comply with the amended Exchange Act and rules thereunder, and is consistent with section 6(b)(1) of the Act.

The proposed amendment, which would provide reasonable standards for discontinuing wire communications between a member's office and the Floor, is consistent with section 6(b)(7) of the Act relating to limitations on access to Exchange services. The proposed amendment, removing the power to approve and disapprove wire communications between members and non-members, is consistent with section 6(b)(7) of the Act in that it eliminates an Exchange provision not related to the purposes of the Act or the administration of the Exchange.

Amex states no comments were solicited or received with respect to the proposed Constitutional amendment.

The Exchange has determined that no burden on competition will be imposed by the proposed Constitutional amendment.

On or before August 10, 1977 or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before August 1, 1977.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

JUNE 30, 1977.

[FR Doc.77-19635 Filed 7-8-77;8:45 am]

[Release No. 34-13706; File No. SR-DTC 76-8]

DEPOSITORY TRUST CO.

Self-Regulatory Organizations; Proposed Rule Change

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on June 20, 1977, the above mentioned self-regulatory organization filed with the Securities and Exchange Commission Amendment No. 2 to a proposed rule change (SR-DTC-76-8) as follows:

STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

The proposed rule change involves implementation of the Participant Terminal System (PTS) of The Depository Trust Company (DTC). The PTS is an automated communications link between DTC and its Participants. The proposed rule change also establishes charges and fees associated with the PTS.

STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the foregoing proposed rule change is as follows:

In 1972 a committee of the Banking and Securities Industry Committee recommended the step-by-step development of a communications network linking the members of the financial community. The purpose of PTS is to implement that recommendation by developing an automated communications link between DTC and its Participants to replace gradually, for Participants utilizing the PTS, the present system in which thousands of written instructions are prepared by Participants and carried by runners to and from DTC each day. The purpose of the additions to the Fee Schedule for Major Services is to allocate fairly the fees imposed on Participants utilizing the PTS.

The proposed rule change will facilitate the prompt and accurate clearance and settlement of securities transactions for which DTC is responsible by implementing an automated communications link between DTC and its Participants and will equitably allocate fees among DTC's Participants.

The PTS was developed in close coordination with DTC's Participants. Comments regarding the PTS were solicited from Participants by numerous conferences and DTC Newsletter articles. Numerous written comments were received, the majority of which either were technical in nature or expressed enthusiasm for the PTS concept and a desire to participate in the PTS. In conferences with Participants, no objections to the new fees were raised, although one Participant stated line charges should be the same for all Participants, and not based on line costs between geographically distant points.

DTC believes that no burden will be placed on competition by the proposed rule change.

On or before August 10, 1977, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the public reference room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should be submitted on or before August 1, 1977.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: June 30, 1977.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-19636 Filed 7-8-77;8:45 am]

[Rel. No. 9831, 812-4138]

MASSACHUSETTS MUTUAL LIFE INSURANCE CO. AND MASSMUTUAL CORPORATE INVESTORS, INC.

Filing of Application

JUNE 29, 1977.

Notice is hereby given that Massachusetts Life Inurance Company ("Insurance Company"), a mutual life insurance company organized under the laws of the Commonwealth of Massachusetts, and MassMutual Corporate Investors, Inc. ("Fund"), 1295 State Street, Springfield, Massachusetts 01111, a non-diversified, cloed-end management investment company registered under the Investment Company Act of 1940 ("Act") (hereinafter referred to collectively as "Applicants"), filed an application on May 23, 1977, and an amendment thereto on June 17, 1977, pursuant to Section 17(d) of the Act and Rule 17d-1 thereunder for an order of the Commission (1) permitting the Insurance Company and the Fund each to purchase $6,000,000 in principal amount, at 100% of the principal amount thereof, of a new issue of 9¾% 15-Year Convertible Subordinated Notes ("Convertible Notes") of Massey-Ferguson (Delaware), Inc., a Delaware corporation ("Massey-Ferguson"), and (2) permitting the Insurance Company to purchase $10,000,000 in principal amount, at 100% of the principal amount thereof, of a new issue of 9% 20-Year Senior Notes ("Non-Convertible Notes") of Massey-Ferguson (hereinafter referred to collectively with the Convertible Notes as "Notes"), or, in the event that such an order does not issue prior to the closing of the purchase by the Insurance Company of the Notes, for an order pursuant to Section 17(b) of the Act exempting from the provisions of Section 17(a) of the Act the proposed sale by the Insurance Company of $6,000,000 in principal amount of the Convertible Notes to the Fund at a price equal to the cost paid by the Insurance Company plus any accrued interest. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

BACKGROUND

According to the application, the Insurance Company, which is the investment adviser to the Fund, has approved the purchase at direct placement at 100% of the principal amount thereof, from Massey-Ferguson, $10,000,000 in principal amount of Non-Convertible

Notes and $12,000,000 in principal amount of Convertible Notes; the proposed purchase is part of a proposed issue by Massey-Ferguson of $150,000,000 in principal amount of Non-Convertible Notes and $150,000,000 in principal amount of Convertible Notes. The application states that the purchasers of such notes other than the Insurance Company and the Fund are presently expected to include several of the largest domestic life insurance companies. The application states further that Massey-Ferguson is a wholly-owned subsidiary of Massey-Ferguson, Ltd. ("Massey Ltd."), a Canadian corporation, and operates primarily for the purpose of raising capital for Massey Ltd. in the United States. According to Applicants, Massey Ltd. is a major manufacturer of farm equipment and also manufactures industrial and construction equipment and diesel engines. Applicants represent that the Notes will be unconditionally guaranteed by Massey Ltd., and that the proceeds from the sale of the Notes will be applied to working capital and the retirement of existing debt of Massey Ltd. Applicants represent further that the purchasers of the Notes (including Applicants) are relying primarily on the credit of Massey Ltd. for payment of the Notes. According to the application, holders of the Convertible Notes are to be permitted at any time to convert all or any portion of the Convertible Notes into shares of common stock of Massey Ltd. at a conversion price of $45 per share during the first five years after the issuance of the Notes and $55 per share thereafter; on May 13, 1977, the closing New York Stock Exchange price for the common stock of Massey Ltd. was $21⅛. The application also states that Massey Ltd. has agreed to register, at its expense, up to two public offerings of the common stock underlying the Convertible Notes at the request of holders of 20% or more of the outstanding Convertible Notes and that Massey Ltd. has agreed to include at the request of any holder of the Convertible Notes the common stock underlying the Convertible Notes held by such holder in any other registration of Massey Ltd. common stock.

Applicants represent that the Insurance Company presently holds $970,000 in principal amount of 5¼% Notes due 1982 and $3,200,000 in principal amount of 5⅞% Subordinated Notes due 1984 of Massey-Ferguson, and that required prepayments on these securities total $430,000 annually. According to the application, no part of the proceeds from the sale of the Notes will be used for the payment of principal or interest on those securities. Applicants represent that neither Massey-Ferguson nor Massey Ltd. is an affiliated person, as defined in Section 2(a)(3) of the Act, of the Insurance Company or of the Fund. Applicants state that neither the Insurance Company, nor, to their knowledge, any affiliated person of the Insurance Company, owns any other securities of Massey-Ferguson, Massey Ltd., or any affiliated persons of Massey-Ferguson or Massey Ltd. Applicants also state that the Fund owns no securities of Massey-Ferguson, Massey Ltd. or, to its knowledge, any affiliated person of Massey-Ferguson or Massey Ltd.

THE PROPOSED TRANSACTION

The Insurance Company proposes (1) to recommend for purchase, by the Fund, one-half ($6,000,000 in principal amount at 100% of the prinripal amount thereof) of the $12,000,000 in principal amount of the Convertible Notes; (2) to purchase, for the Insurance Company, one-half ($6,000,000 in principal amount at 100% of the principal amount thereof) of the $12,000,000 in principal amount of the Convertible Notes; and (3) to purchase, for the Insurance Company, $10,000,000 in principal amount, at 100% of the principal amount thereof, of the Non-Convertible Notes. Applicants represent that in the judgment of the Insurance Company, the Convertible Notes would be an attractive investment for the Fund. Applicants represent further that (1) Massey Ltd. has shown consistent growth in both sales and earnings; (2) as of May 18, 1977, the interest rates on the Notes are commensurate with prevailing market rates of interest for companies like Massey Ltd.; (3) the interest rate is attractive in light of the current yield on the Fund's portfolio; and (4) the convertibility of the Convertible Notes further enhances their value to the Fund.

Applicants state, however, that the Insurance Company does not consider it advisable or consistent with the investment objectives and policies of the Fund for the Fund to purchase any part of the Non-Convertible Notes. According to Applicants, the purchase by the Fund of one-half of the principal amount of both the Convertible and Non-Convertible Notes would involve an investment by the Fund of $11,000,000 in the Notes, which would constitute, after such investment, approximately 11% of the value of the Fund's portfolio and by far the largest investment of the Fund in a single issue. Applicants represent that it would be inappropriate at this time for the Fund to invest such a large proportion of its portfolio in such a manner; the proposed purchase of Convertible Notes by the Fund alone would constitute one of its largest investments in a single issue. Applicants state, by contrast, that the proposed investment of $16,000,000 in the Notes by the Insurance Company constitutes considerably less than 1% of the value of the Insurance Company's bond portfolio. Applicants represent further that, although the Convertible Notes are subordinated to the Non-Convertible Notes, the higher rate of interest on and the conversion feature of the Convertible Notes make them a more attractive investment for the Fund than the Non-Convertible Notes.

Applicants state that if a favorable Commission order is received prior to the issuance of the Notes, the Fund will purchase directly from the issuer at closing; the Insurance Company is prepared to purchase for its general account the $10,000,000 in principal amount of Non-Convertible Notes and the $12,000,000 in principal amount of Convertible Notes at the closing and promptly sell one-half of the principal amount of Convertible Notes to the Fund at the price paid by the Insurance Company plus accrued interest if the Commission order is received after such closing but not later than three months thereafter, and upon receipt from the Fund of appropriate investment representations and an undertaking to be bound by the terms and conditions subject to which the Insurance Company holds such securities. The application states that the Insurance Company's obligations thus to sell to the Fund will be reflected in the investment representations made to Massey-Ferguson and in the provisions applicable to its right to transfer part of the Notes. Applicants represent that the Insurance Company is prepared to purchase for its general account both the Non-Convertible Notes and all $12,000,000 in principal amount of the Convertible Notes, if no Commission order is received prior to, or within three months after, the issuance of the Notes.

Pursuant to an order of the Commission issued on August 19, 1971 (Investment Company Act Release No. 6690) ("Order"), the Insurance Company is permitted to invest concurrently for its general account in each issue of securities purchased by the Fund at direct placement, and to exercise warrants, conversion privileges and other rights at the same time as the Fund. The Order is subject to several conditions, one being that neither the Insurance Company nor the Fund has any prior interest in, or subsequently acquires any further interest in, an issuer or in any affiliated person of an issuer other than interests in all respects identical. Applicants assert that since the Insurance Company presently owns securities of Massey-Ferguson while the Fund does not, and because the Insurance Company proposes to purchase the Non-Convertible Notes, the proposed transaction is not permitted by the provisions of the Order.

Section 2(a)(3) of the Act includes, within the definition of an affiliated person of an investment company, any investment adviser thereof; thus, the Fund's investment adviser, is an affiliated person of the Fund. Section 17(d) of the Act and Rule 17d-1 thereunder, taken together, provide, in part, that it is unlawful for an affiliated person of a registered investment company, acting as principal, to effect any transaction in which such investment company is a joint participant, without the permission of the Commission. Rule 17d-1 provides, in part, that in passing upon applications for orders granting such permission, the Commission will consider (1) whether the participation of the investment company in such transaction on the basis proposed is consistent with the provisions, policies, and purposes of the Act, and (2) the extent to which such participation is on a basis different from or less advantageous

than that of other participants. Accordingly, Applicants have requested an order, pursuant to Section 17(d) of the Act and Rule 17d–1 thereunder, permitting the acquisition by the Insurance Company of $10,000,000 in principal amount of Non-Convertible Notes at 100% of the principal amount thereof and $6,000,000 in principal amount of Convertible Notes at 100% of the principal amount thereof, and by the Fund of $6,000,000 in principal amount of Convertible Notes at 100% of the principal amount thereof. Applicants submit (1) that disadvantage to the Fund will result if the Fund is not permitted to acquire a portion of the Convertible Notes; (2) that the interest of the Insurance Company in certain outstanding securities of Massey-Ferguson and in its purchase of the new Notes has had no effect on the decision of the Insurance Company to recommend the purchase of the Convertible Notes by the Fund; (3) that it is appropriate for the Fund to purchase only the Convertible Notes because a purchase of one-half of both Convertible and Non-Convertible Notes would constitute an investment of an unreasonably large portion of the Fund's portfolio in such issues; (4) that of the two issues, the Convertible Notes are a more attractive investment to the Fund; and (5) that the Fund's purchase of only the Non-Convertible Notes would be inconsistent with the investment policy of the Fund to purchase primarily securities having equity features. Applicants therefore submit that, in their view, the participation of the Fund in the purchase of the Convertible Notes will be on a basis no different from and no less advantageous than that of the Insurance Company, and is consistent with the provisions, policies and purposes of the Act.

Section 17(a) of the Act provides, in part, that it is unlawful for any affiliated person of a registered investment company knowingly to sell to such registered investment company any security or other property. Pursuant to Section 17 (b) of the Act, the Commission, upon application, shall grant an exemption from such prohibition if evidence establishes that the terms of the proposed transaction are fair and reasonable and do not involve overreaching on the part of any person concerned, and that the proposed transaction is consistent with the policy of the registered investment company concerned and with the general purposes of the Act.

Applicants seek an exemption pursuant to section 17(b) of the Act to permit the sale by the Insurance Company to the Fund of $6,000,000 in principal amount of Convertible Notes at the price paid by the Insurance Company therefor plus any accured interest, in the event that the requested order pursuant to Section 17(d) of the Act and Rule 17d–1 thereunder is not granted before the issuance of the Notes. Applicants represent that such transfer will be made by the Insurance Company only if a Commission order is received within three months of the acquisition of the Notes by the Insurance Company so that, in Applicant's opinion, such a sale to the Fund at the Insurance Company's cost plus accured interest can be regarded as made at a fair price. Applicants represent that the Fund will not be obligated to purchase the Notes from the Insurance Company unless contemporaneously a majority of the "non-interested" directors of the Fund approve such purchase. Applicants submit that, for the reasons set forth above, the terms of such proposed sale by the Insurance Company to the Fund (1) are reasonable and fair and do not involve overreaching on the part of either the Insurance Company or the Fund; (2) are consistent with the policy of the Fund; and (3) are consistent with the general purposes of the Act.

Notice is further given that any interested person may, not later than July 21, 1977, at 5:30 p.m., submit to the Commission in writing a reqeust for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule O–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77–19634 Filed 7–8–77;8:45 am]

[Release No. 34–13699;
File No. SR–MSE–77–27]

MIDWEST STOCK EXCHANGE, INC.

Self-Regulatory Organizations; Proposed Rule Change

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1) (the "Act"), as amended by Pub. L. No. 94–29, 16 (June 4, 1975), notice is hereby given that on June 20, 1977, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

MSE'S STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

(Additions *italicized*)

Article XIV, New Rule 15 of the Midwest Stock Exchange Rules—Expenditure Limits.

Expenditure Limits

Rule 15. Any project, non-budgeted operational activity, capital expenditure, or lease commitment in excess of an amount as established by resolution of the Board of Governors, and any new service which is planned or expected to generate gross annual revenue in excess of an amount established by the Board of Governors, shall be approved by the Board prior to implementation.

MSE'S STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the foregoing proposed rule change is as follows:

The purpose of the proposed rule change limits expenditures made by management by requiring Board approval in accordance with those expenditures in excess of an amount to be established by the Board of Governors.

The proposed rule change represents a fair representation of its membership in the administration of its affairs by establishing controls on company expenditures by requiring Board approval.

MSE states that comments have neither been solicited nor received.

The Midwest Stock Exchange believes that no burdens will be placed on competition.

The foregoing rule change has become effective, pursuant to section 19(b)(3) of the Securities Exchange Act of 1934. At any time within sixty days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before August 1, 1977.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

JUNE 29, 1977.

[FR Doc.77–19643 Filed 7–8–77;8:45 am]

[Release No. 34-13702; File No. SR-MSE-77-19]

MIDWEST STOCK EXCHANGE, INC.

Self-Regulatory Organizations; Proposed Rule Change

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on June 22, 1977, the above mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

Statement of the Terms of Substance of the Proposed Rule Change (deletions [bracketed], additions italicized)

ARTICLE III

Committee on Specialist Assignment and Evaluation

Rule 4. There shall be a Committee on Specialist Assignment and Evaluation which shall have not less than five members in addition to the ex-officio members. The majority of the members of this Committee other than ex-officio members shall not be affiliated with broker/dealers and no member of the Committee may be affiliated with a specialist unit. The Chairman of this Committee shall *not be affiliated with a broker/dealer* (be a Public Governor of the Board). The Committee shall have the responsibility for appointing specialist, cospecialists and odd-lot dealers, evaluating and monitoring their performance, and conducting deregistration proceedings in accordance with the provisions of Article XXIV. It shall consult and coordinate with the Floor Procedure Committee where appropriate to ensure that the expertise available through the Floor Procedure Committee is utilized in connection with performance of these responsibilities.

MSE's STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the foregoing proposed rule change is as follows:

The purpose of the proposed rule change is to eliminate wording which requires the Chairman of the Committee on Specialist Assignment and Evaluation to be a public governor of the Exchange. New wording prohibts any affiliation with a broker/dealer by the Chairman of the Committee.

Prior to the active inception of the Committee on Specialist Assignment and Evaluation, it was anticipated that its Chairman would be a public governor of the Exchange. It was later determined that the public governor requirement was no longer necessary since the Chairman would still be prohibited from having any affiliation with a broker/dealer.

Comments have neither been solicited nor received.

The Midwest Stock Exchange, Incorporated, believes that no burdens have been placed on competition.

On or before August 15, 1977, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before August 1, 1977.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

JUNE 29, 1977.

[FR Doc.77-19642 Filed 7-8-77;8:45 am]

[Release No. 34-13707; File No. SR-MSE-77-28]

MIDWEST STOCK EXCHANGE, INC.

Self-Regulatory Organizations; Proposed Rule Change

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1) (the "Act"), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on June 27, 1977, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

TEXT OF THE MIDWEST STOCK EXCHANGE'S ("MSE") PROPOSED RULE CHANGE

Rule 13 of Article XXXIV is hereby amended as follows:

Additions Italicized—[Deletions Bracketed]

REGISTRATION AND APPLICATION

Rule 13. A member may be registered, upon application and subject to such requirements of training, experience, and competence as the Exchange may impose, as a registered market maker. [No member may be registered as a market maker on the equity floor if such member holds either a principal or supplemental appointment on the options floor of the Exchange: *Provided, however,* That this shall not prevent one member representing a member organization from holding market maker appointments in overlying options while another member representing the same member organization is registered as a market maker in the securities underlying such options or in other securities.]

MSE's STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the foregoing proposed rule change is as follows:

The purpose of this proposal is to allow options-only members to be registered as market makers in the stocks underlying options traded on the Exchange and to allow members who are both options and equity members to hold appointments as market makers in both stocks and options, thus giving the market makers greater flexibility, and increasing the trading opportunities available to them.

Market makers must effect their transactions in securities listed on the Exchange so that they constitute a course of dealings reasonably calculated to contribute to the maintenance of a fair and orderly market.

The increased flexibility gained by access to both trading floors and the additional trading opportunities available will improve their ability to provide deeper, more liquid markets and thus increase their ability to meet their obligations.

Further, the ability of the market makers to compete will be favorably impacted by this proosal in accordance with the mandate of the Act.

Comments have neither been solicited nor received.

The MSE believes that no burdens will be placed on competition if the proposed rule change is approved by the Commission.

On or before August 15, 1977, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate nd publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before August 1, 1977.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

JUNE 30, 1977.

[FR Doc.77-19641 Filed 7-8-77;8:45 am]

[Release No. 34-13700; File No. SR-MSE-77-26]

MIDWEST STOCK EXCHANGE, INC.

Self-Regulatory Organizations; Proposed Rule Change

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1) (the "Act"), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on June 20, 1977, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

MSE's STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

(additions *italicized*, deletions [bracketed]

Revision of Article IV, Rule 2 of the Midwest Stock Exchange Rules—Finance Committee.

FINANCE COMMITTEE

Rule 2. There shall be a Finance Committee which shall have five members, in addition to the ex-officio members[.] *, all of whom shall be Governors.* [The Chairman shall be a member of the Executive Committee, and at least two other members of the Committee shall be Governors. It shall have authority to cause moneys of the Exchange to be deposited in one or more banks and shall carry out the investment policy of the Exchange as determined by the Board of Governors. It shall review and submit to the Board of Governors a report of receipts and disbursements for each fiscal year with a statement of the funds and the securities held by the Exchange. Prior to the commencement of each fiscal year it shall submit to the Board an estimate of receipts and expenditures for the ensuing year and recommend the amount of dues and other charges for the ensuing year so as to operate the Exchange on a balanced budget. To assist in maintaining a balanced budget, the Finance Committee shall be consulted on any contemplated expenditure by the Exchange amounting to more than $2,000 which is not provided for in the budget. In its investment activities, the Committee shall act on the recommendations of professional investment counsel employed by the Exchange to recommend securities to be bought and sold in the Exchange's investment account. At intervals of six months, or more often if it so decides, the Committee shall review the Exchange's investment account and render a detailed report of its review to the Executive Committee.] *The Committee shall review all annual Profit Plans and Budgets for the Exchange and its subsidiaries prior to submission to the Board and make such recommendation to the Board with respect thereto as it may deem appropriate. It shall review from time to time the financial condition of the Exchange and its subsidiaries, and make such recommendations to the management or to the Board with respect thereto as it may deem appropriate. It shall formulate an investment policy and submit same to the Board for approval, and shall review the performance of all Exchange investments on a quarterly basis.*

MSE's STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the foregoing proposed rule change is as follows:

The purpose of th proposed rule change is a redefinition of the Finance Committee functions allowing the Committee more latitude in its review of financial plans in budgets for the Exchange and its subsidiaries.

The proposed rule change represents a fair representation of its membership in the administration of its affairs by delegating financial responsibility to a specified standing committee.

MSE states that comments have neither been solicited nor received.

The Midwest Stock Exchange believes that no burdens will be placed on competition.

The foregoing rule change has become effective, pursuant to section 19(b)(3) of the Securities Exchange Act of 1934. At any time within sixty days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submission should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room,, 1100 L Street, NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before August 1, 1977.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

JUNE 29, 1977.

[FR Doc.77-19640 Filed 7-8-77;8:45 am]

[Release No. 34-13701; File No. SR-MSE-77-25]

MIDWEST STOCK EXCHANGE, INC.

Self-Regulatory Organizations; Proposed Rule Change

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), (the "Act"), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on June 20, 1977, the above mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

MSE's STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

Article IV, New Rule 8 of the Midwest Stock Exchange Rules—Audit Committee.

(Additions italicized)

Audit Committee

Rule 8. *There shall be an Audit Committee which shall have not less than three members, in addition to the ex-officio members, all of whom shall be Governors. The Committee shall have the responsibility to annually review with the independent auditors, the scope of their examination and the cost thereof.*

It shall periodically review with the independent auditors and the internal auditor, the Exchange's internal controls and the adequacy of the internal audit program. It shall review the annual "management letter" and other reports submitted by the independent auditors, and take such action with respect thereto as it may deem appropriate. The Committee shall also annually recommend to the Board of Governors independent public acountants for appointments as auditors of the books, records and accounts of the Exchange and its subsidiaries.

[Present Rule 8 will be re-numbered as "Rule 9".]

MSE's STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the foregoing proposed rule change is as follows:

The purpose of the proposed rule change is the creation of an Audit Committee. This Committee shall have the responsibility to review the Exchange's internal controls and the adequacy of the internal audit program. Previously, such a review was done by the full Board.

The proposed rule change represents a fair representation of its membership in the administration of its affairs by delegating Audit Committee responsibility to a specified standing committee.

MSE states that comments have neither been solicited nor received.

The Midwest Stock Exchange believes that no burdens will be placed on competition.

The foregoing rule change has become effective, pursuant to section 19(b)(3) of the Securities Exchange Act of 1934. At any time within sixty days of the filing of such proposed rule change, the Commission may summarily abrogate such

rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before August 1, 1977.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

JUNE 29, 1977.

[FR Doc.77-19639 Filed 7-8-77;8:45 am]

[Rel. No. 13709; File No. SR-OCC-77-1]

OPTIONS CLEARING CORP.

Rule Change

JUNE 30, 1977.

Order approving rule change submitted by the options clearing corporation to permit an exercise notice to be filed in respect of an opening purchase transaction on the date when the transaction is executed.

On April 20, 1977, The Options Clearing Corporation ("OCC"), 6150 Sears Tower, Chicago, Illinois 60606, submitted, pursuant to Rule 19b-4 under the Securities Exchange Act of 1934 (the "Act"), a proposed rule change to permit a clearing member to file an exercise notice respecting an opening purchase transaction on the date of such transaction.

In accordance with Section 19(b) of the Act and Rule 19b-4 thereunder, the proposed rule change was published in the FEDERAL REGISTER (42 FR 23899, May 11, 1977), and the public was invited to submit comments until June 1, 1977. Notice of the filing and an invitation for comments also appeared in Securities Exchange Act Release No. 13503, May 3, 1977. No letters of comment were received.

The Commission has reviewed the OCC submission and finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to registered clearing agencies, and in particular, the requirements of Section 17A and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change contained in File No. SR-OCC-77-1 be, and hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-19632 Filed 7-8-77;8:45 am]

[Rel. No. 13694, SR-PSE-77-12]

PACIFIC STOCK EXCHANGE INC.

Proposed Rule Change

JUNE 29, 1977.

On May 6, 1977, the Pacific Stock Exchange Incorporated ("PSE"), 618 South Spring Street, Los Angeles, California 90014, filed with the Commission, pursuant to Section 19(b) of the Securities Exchange Act of 1934 (the "Act"), as amended by the Securities Acts Amendments of 1975, and Rule 19b-4 thereunder, copies of a proposed rule change to permit a smaller trading differential on local PSE stocks (which are stocks not traded on either the New York or American Stock Exchange) which trade between $1 and $5.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission Release (Securities Exchange Act Release No. 13541 (May 13, 1977)) and by publication in the FEDERAL REGISTER (42 FR 27358 (May 27, 1977)).

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to registered national securities exchanges, and in particular, the requirements of Section 6 and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change filed with the Commission on May 6, 1977, be, and it hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-19633 Filed 7-8-77;8:45 am]

SMALL BUSINESS ADMINISTRATION

[License No. 30/03-5130]

FIRST COLONIAL INVESTMENT CORP.

Issuance of a License To Operate as a Small Business Investment Company

On May 18, 1977, a notice was published in the FEDERAL REGISTER (42 FR 25571), stating that First Colonial Investment Corporation, located at Pembroke Four, Virginia Beach, Virginia 23463, had filed an application with the Small Business Administration pursuant to 13 CFR 107.102 (1977) for a license to operate as a small business investment company under the provisions of section 301(d) of the Small Business Investment Act of 1958, as amended.

The period for comment expired on June 2, 1977, and no comments were received.

Notice is hereby given that having considered the application and other pertinent information, SBA has issued License No. 03/03-5130 to First Colonial Investment Corporation.

(Catalog of Federal Domestic Assistance Program No. 59.011 Small Business Investment Companies)

Dated: July 1, 1977.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc.77-19645 Filed 7-8-77;8:45 am]

[Proposed Licene No. 02/02-0331]

FIRST WOMAN'S SMALL BUSINESS INVESTMENT CORP.

Application for a License to Operate as a Small Business Investment Company

An Application for a license to operate as a Small Business Investment Company under the Small Business Investment Act of 1958, as amended (Act) (15 U.S.C. 661 et seq.) has been filed by First Woman's Small Business Investment Corp. (the applicant), with the Small Business Administration (SBA) pursuant to 13 CFR 107.102.

The applicant, with its place of business at 885 Second Avenue, New York, New York 10017, will begin operations with $500,000 of paid-in capital and surplus. Its common stock will be owned by a limited partnership, First Women's Funding Company (FWF Co.), the general partner of which is a corporation, First Woman's Funding Corporation (FWF Corp.), owned by Dr. Sandra M. Brown and Peter E. Senne. FWF Corp. will manage the business and affairs of the applicant.

The officers and directors of the applicant and FWF Corp. will be as follows:

Dr. Sandra M. Brown, President, Director, 245 East 40th Street, New York, New York 10016.

Peter E. Senne, Vice President, Director, 3 Harbor Road, Cold Springs Harbor, New York 11724.

Wendy Schantzer, Secretary, Treasurer, Director, 619 Third Avenue, New York, New York 10028.

Other Associate:

Susan F. Stein, Beneficial owner of more than 10 percent of FWF Co. (100 percent owner of applicant), 241 Central Park West, New York, New York 10024.

The applicant will sublease 55 percent of its leased space to another company affiliated with Dr. Brown.

Limited Partnerships shares in the Applicant will be solely owned by Peter E. Senne at the formation of the company. However, to raise additional capital, forty limited partnership interests may be offered to persons or entities including

Mr. Senne's partnership interest. FWF Corp. will own 15 percent of partnership capital.

The limited partnership's (FWF Co.) sole purpose will be that of owning the shares of the applicant. However, the General Partner (FWF Corp.) may invest in other enterprises or engage in consulting services relating to investments.

The applicant indicated that it would establish a broad financing policy. It would welcome requests for financial assistance from female-owned enterprises, however, it will solicit clients and consider their financial requests on the basis of credit and other relevant qualifications, regardless of the sex or marital status of their principals. It will conduct its operations primarily in the New York metropolitan area.

The officers and directors of the applicant will render management consulting services to clients and other small business concerns.

Matters involved in SBA's consideration of the applicant include the general business reputation and character of the proposed owners and management, and the probability of successful operation of the applicant under their management, including adequate profitability and financial soundness, in accordance with the Act and the SBA rules and regulations.

Any person may, on or before [15 days from the date of this Notice] submit to SBA written comments on the proposed License. Any such communications should be addressed to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, NW., Washington, D.C. 20416.

A copy of this Notice shall be published in a newspaper of general circulation in New York, New York.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: July 1, 1977.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc.77-19646 Filed 7-8-77;8:45 am]

[License No. 07/07-0077]

KANSAS VENTURE CAPITAL, INC.

Issuance of License To Operate as a Small Business Investment Company

On January 10, 1977, a notice was published in the FEDERAL REGISTER (42 FR 2124) stating that Kansas Venture Capital, Inc., 1030 First National Bank Tower, One Townsite Plaza, Topeka, Kansas 66603, had filed an application with the Small Business Administration (SBA), pursuant to § 107.102 of the rules and regulations governing small business investment companies (13 CFR 107.102 (1977)) for a license to operate as a small business investment company (SBIC).

Interested parties were given to the close of business January 25, 1977, to submit their written comments to SBA.

Notice is hereby given that, having considered the application and all other information, SBA has issued License No. 07/07-0077 to Kansas Venture Capital, Inc., pursuant to section 301(c) of the Small Business Investment Act of 1958, as amended.

(Catalog of Federal Domestic Assistance Program 59.011, Small Business Investment Companies)

Dated: July 1, 1977.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc.77-19644 Filed 7-8-77;8:45 am]

DEPARTMENT OF JUSTICE

Antitrust Division

UNITED STATES v. INDUSTRIAL ELECTRONIC ENGINEERS, INC.

Proposed Consent Judgment and Competitive Impact Statement Thereon

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16 (b) through (h), that a proposed consent judgment and a competitive impact statement as set out below have been filed with the United States District Court for the Central District of California, Los Angeles, California, in Civil Action No. 73-1427-WPG, *United States of America* v. *Industrial Electronic Engineers, Incorporated*.

The complaint in this case alleges that the defendant violated section 2 of the Sherman Act by monopolizing the manufacture and sale of rear projection readout devices. The proposed consent judgment orders the defendant to grant unrestricted royalty-free licenses under certain of its patents together with the know-how therefor; enjoins the defendant for five years from acquiring any stock, assets or other interest in anyone engaged in the manufacture or assembly of rear projection readouts; and prohibits defendant from engaging in a propaganda compaign to discredit and disparage competitors.

Public comment is invited on or before August 29, 1977. Such comments and responses thereto will be published in the FEDERAL REGISTER and filed with the Court. Comments should be directed to Dwight B. Moore, Chief, Los Angeles Field Office, Antitrust Division, United States Department of Justiie, 312 North Spring Street, Los Angeles, California 90012.

Dated: June 29, 1977.

CHARLES F. B. MCALEER,
Assistant Chief, Judgments and Judgment Enforcement Section.

UNITED STATES DISTRICT COURT,
CENTRAL DISTRICT OF CALIFORNIA

United States of America, Plaintiff, v. *Industrial Electronic Engineers, Incorporated*, Defendant.

Civil Action No. 73-1427-WPG.

STIPULATION

Filed: June 29, 1977.

Raymond P. Hernacki, Antitrust Division, Department of Justice, 1444 United States Courthouse, 312 North Spring Street, Los Angeles, California 90012, Telephone: 213-688-2502. Attorney for Plaintiff.

It is stipulated by and between the undersigned parties, by their respective attorneys, that:

1. A Final Judgment in the form hereto attached may be filed and entered by the Court, upon the motion of either party or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act, Pub. L. 93-528, and without further notice to either party or other proceedings: *Provided*, That plaintiff has not withdrawn its consent, which it may do at any time before the entry of the proposed final judgment by serving notice thereof on defendant and by filing that notice with the Court.

2. In the event plaintiff withdraws its consent or if the proposed Final Judgment is not entered pursuant to this stipulation, this stipulation shall be of no effect whatever and the making of this stipulation shall be without prejudice to plaintiff and defendant in this or any other proceeding.

Dated: June 29, 1977.

John H. Shenefield, *Acting Assistant Attorney General, Antitrust Division;* William E. Swope, Dwight B. Moore, *Attorneys, Department of Justice;* Charles F. B. McAleer, Robert J. Ludwig, Raymond P. Hernacki, *Attorneys, Department of Justice.*

For the Defendant: Robert G. Lane, *Attorney for Industrial Electronic Engineers, Inc.*

UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA

United States of America, Plaintiff, v. *Industrial Electronic Engineers Incorporated*, Defendant.

Civil No. 73-1472-WPG
Filed: June 29, 1977.
Entered:

FINAL JUDGMENT

Plaintiff, United States of America, having filed its Complaint herein on June 27, 1973 and plaintiff and the defendant, by their respective attorneys, having consented to the entry of this Final Judgment, without trial or adjudication of any issue of fact or law herein, and without admission by any party with respect to any such issue, and without this Final Judgment constituting evidence or admission by any party with respect to any such issue;

Now, therefore, before the taking of any testimony and without adjudication of any issue of fact or law herein and upon the consent of the parties hereto, it is hereby ordered, adjudged and decreed as follows:

I

This Court has jurisdiction over the subject matter herein and of the parties hereto. The Complaint states a claim against the defendant upon which relief may be granted under section 2 of the Act of Congress of July 2, 1890, as amended (15 U.S.C. 2), commonly known as the Sherman Act.

II

The provisions of this Final Judgment applicable to Industrial Electronic Engineers, Inc. (referred to hereinafter as "IEE") shall also apply to each of its officers, directors, agents, employees, subsidiaries, successors, and assigns, and to all other persons in active concert or participation with any of them who shall have received actual notice of this Final Judgment by personal service or otherwise.

III

As used in this Final Judgment:

(A) "Rear projection readout" means any display device capable of selectively projecting from a film or other image-forming element a wide variety of numbers, letters, symbols or pictures in one or more colors from the rear of the device onto a miniature front viewing screen.

(B) "IEE cost" means all expenses incurred by IEE, under generally accepted accounting principles, consistently applied, as determined by a generally recognized national certified public accounting firm, in the production and sale of any rear projection readout, but shall not include any research and development expense or any initial tooling and other start up expenses incurred by IEE in connection with such rear projection readouts.

(C) "IEE know-how" means (1) a list disclosing the name and last known address of each person in the United States to whom rear projection readouts were sold by IEE between January 1, 1973 and the date of entry of this Final Judgment, and (2) written or microfilmed information, owned or controlled by IEE on the date of entry of this Final Judgment, disclosing designs for, or methods or techniques of, manufacturing and/or assembling rear projection readouts, including, but not limited to, all: drawings, blueprints, specifications, information on microfilm quality, workmanship standards, quality assurance standards, production process control travelers, quality control inspection instructions, general inspection instructions, and copies thereof.

(D) "Person" means any individual, corporation, association, partnership or other legal entity.

IV

IEE is hereby enjoined and restrained from:

(A) Selling or offering to sell rear projection readouts at prices below IEE cost except where such sales or offers (1) are incidental to a legitimate close-out or discontinuance by IEE of such rear projection readouts, and such rear projection readouts were previously offered for sale by IEE in a standardized form to two or more customers, or (2) are made to meet the equally low price offered by a competitor. This Section IV(A) shall not preclude IEE from giving, without charge, a small quantity of any model of rear projection readouts, not to exceed five (5) in number for each such model, as advertising or promotional samples.

(B) Acquiring or receiving, for a period of five (5) years immediately following the date of entry of this Final Judgment, any stocks, bonds, notes, capital assets, or other interest in any person engaged in the manufacture or assembly of rear projection readouts, except IEE may acquire notes or security interests in connection with sales of IEE products or services made in the ordinary course of business.

(C) Acquiring or receiving, for a period of ten (10) years immediately following the date of entry of this Final Judgment, exclusive control of any patents, trademarks, designs, inventions, improvements, or know-how covering the manufacture, production, or assembly of rear projection readouts, except from a person that conceived or developed said patents, trademarks, designs, inventions, improvements, or know-how in the course of such person's services for IEE as an employee or agent.

(D) Monopolizing (as used in Section 2 of the Sherman Act) the rear projection readout market in the United States.

V

(A) Within ninety (90) days following the date of entry of this Final Judgment, IEE is ordered and directed to establish and to distribute to all IEE personnel a written policy, approved by the plaintiff, prohibiting any officer, director, employee or agent of IEE from authorizing, making, publishing or acquiescing in any statement, known to be false or believed to be false by such officer, director, employee or agent of IEE, to discredit or disparage any person engaged in the manufacture or sale of rear projection readouts. Such policy shall provide that violation thereof by any IEE personnel will be cause for immediate dismissal.

(B) For a period of five (5) years immediately following the date of entry of this Final Judgment, IEE (1) shall annually distribute, within the thirty (30) days immediately preceding the anniversary of the date of entry of this Final Judgment, a copy of such policy to all IEE sales personnel and (2) shall distribute a copy of said policy to each new officer, director, employee or agent at the time of his employment.

VI

(A) IEE is ordered and directed to grant to each person in the United States making written request therefor, an irrevocable, royalty-free, non-exclusive, and unrestricted license to make, have made, use, sell or lease the subject matter claimed therein under any or all of the following United States patents, and any reissues thereof, and on any patents issued from any division or continuation thereof, and all other United States patents issued to IEE or under which IEE has the right to grant licenses or sublicenses, on or before the date of entry of this Final Judgment, and disclosing and claiming rear projection readouts or disclosing and claiming components or subassemblies for such rear projection readouts or disclosing and claiming methods of, or equipment for, making such rear projection readouts or such components or subassemblies.

No.	Date issued	Inventor(s)
3,041,600	June 26, 1962	Donald G. Gumpertz and John E. Hendricks.
3,201,784	Aug. 17, 1965	John E. Hendricks and David M. Piatt.
3,244,071	Apr. 5, 1966	Donald G. Gumpertz.
3,332,318	July 25, 1967	Guy O. Gessel.
3,761,169	Sept. 25, 1973	Robert W. Farnden, Roger Silverstone, and John E. Hendricks.

(B) Except as otherwise provided in this Final Judgment or as implied by law, nothing herein shall require IEE to grant the right to sublicense to any person obtaining a license pursuant to the provisions of this Section VI.

(C) IEE is enjoined and restrained from bringing or prosecuting any action against any person licensed under this Section VI on the ground that any rear projection readouts made, made for, used, sold or leased by such person infringed on any patents listed in Section VI(A) of this Final Judgment.

(D) IEE is ordered and directed for a period of five (5) years from the entry of this Final Judgment, upon written request, to furnish IEE know-how used or useful to practice the subject matter claimed under all patents licensed pursuant to this Section VI (except that IEE shall not be required to furnish any know-how specifically directed to and developed in connection with any invention or improvement covered by any rear projection readout patent issued to IEE after the date of entry of this Final Judgment), at a price not to exceed the actual cost to IEE of assembling and reproducing such know-how. Such know-how shall be provided pursuant to this subsection VI (D) for each rear projection readout as a unit and for the separate components of (1) the casing for the rear projection readout and all parts within the casing; (2) each bezel of standardized form; and (3) the lamp terminal assembly and each terminal assembly forming a part thereof. Know-how shall also be provided by IEE for all switches and connector assemblies for IEE's model designated "Series 405." IEE shall not be obligated to provide know-how for (1) decoders for converting information in one code into information in another code; (2) drivers for electrically energizing the light sources; (3) power supplies for supplying electrical energy to the various electrical components including the light sources and the decoders and drivers; (4) parts, sub-assemblies, assemblies and accessories which are not supplied by IEE; and (5) parts, sub-assemblies, assemblies and accessories which are not listed above.

(E) IEE shall not sell, transfer, assign or otherwise dispose of any of the patents or know-how referred to in this Section VI unless the purchaser, transferee or assignee agrees in writing, prior to the consummation of such sale, transferral, assignment or other disposition, to be bound by the provisions of this Section VI.

(F) The provisions of this Section VI shall not be contrued as requiring IEE to provide any IEE know-how hereunder to any person owned or controlled, directly or indirectly, by any person whose principal place of business or permanent residence is not within the United States, and shall not be construed to prohibit IEE from requiring any person receiving IEE know-how hereunder to agree in writing not to disoclose any IEE know-how to any person owned or controlled, directly or indirectly, by any person whose principal place of business or permanent residence is not within the United States.

VII

Nothing in this Final Judgment shall be construed to grant to any person any right in IEE trademarks, trade names, copyrights, or model designations, or to confer any rights to any person that unlawfully passes off any product as a product of IEE.

VIII

For a period of five (5) years from the date of entry of this Final Judgement, IEE is ordered to annually provide the plaintiff, within thirty (30) days prior to each anniversary date of the entry of this Final Judgment, a report setting forth the steps IEE has taken to comply with Sections V and VI of this Final Judgment.

IX

(A) For the purpose of determining or securing compliance with this Final Judgment, and for no other purpose, any duly authorized representative of the Department of Justice shall, upon written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to IEE made to its principal office, be permitted subject to any legally recognized privilege:

(1) Access during the office hours of IEE to all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of IEE relating to any matters contained in this Final Judgment; and

(2) Subject to the reasonable convenience of IEE and without restraint or interference

from it, to interview officers, directors, agents or employees of IEE who may have counsel present, regarding any such matters.

(B) Upon written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, IEE shall submit such reports in writing to the plaintiff with respect to matters contained in this Final Judgment as may from time to time be requested.

(C) No information obtained by the means provided in this Section IX shall be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of the Executive Branch of the plaintiff, except in the course of legal proceedings to which the United States is a party, or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

X

Jurisdiction is retained for the purpose of enabling any of the parties to this Final Judgment to apply to this Court at any time for such further orders and directions as may be necessary or appropriate for the construction or carrying out of this Final Judgment, for the modification of any of the provisions hereof, and for the violation of any of the provisions contained herein.

XI

Entry of this Final Judgment is in the public interest.

Dated: _____

_____

United States District Judge.

UNITED STATES DISTRICT COURT CENTRAL DISTRICT OF CALIFORNIA

United States of America, Plaintiff, v. *Industrial Electronic Engineers, Inc.*, Defendant.

Civil No. 73-1472-WPG.

Filed: June 29, 1977.

PROPOSED CONSENT JUDGMENT: COMPETITIVE IMPACT STATEMENT

Raymond P. Hernacki, Antitrust Division, Department of Justice, 1444 United States Courthouse, 312 North Spring Street, Los Angeles, California 90012, Telephone: (213) 688-2502, Attorney for Plaintiff.

This Competitive Impact Statement is filed pursuant to section 2(b) of the "Antitrust Procedures and Penalties Act" (15 U.S.C. 16 (b)-(h)), and relates to the proposed consent judgment submitted for entry in this civil antitrust proceeding.

I. *Nature and purpose of the proceeding.* This is a civil antitrust action filed by the United States of America under Section 4 of the Sherman Act (15 U.S.C. 4) alleging that Industrial Electronic Engineers (IEE) violated section 2 of the Sherman Act (15 U.S.C. 2), by monopolizing the manufacture and sale of rear projection readouts.

Entry by the Court of the proposed consent judgment will terminate this action, however the Court will retain jurisdiction for any further proceedings which may be required to interpret, modify or enforce the judgment, or to punish alleged violations of any of the provisions thereof.

II. *Background and description of the practices involved in the alleged violation.* A rear projection readout (RPRO) is a display device capable of projecting from a film or other image-forming element a wide variety of numbers, letters, symbols or pictures in one or more colors, from the rear of the device onto a miniature front viewing screen. Rear projection readout devices are found on computers, calculators, stock quotation machines, instrument panels, airport message boards, aircraft and flight support equipment such as a radar, etc. They provide a visual cue to any operator or monitor of equipment reflecting the status of the equipment or of the events being operated or monitored. RPRO devices surpass other types of readouts because the characters are projected from film, thus anything that is photographically reproducible can be displayed via RPRO devices.

IEE was the initial producer of RPRO devices in this country in 1958, and claims to be the world's largest manufacturer of such devices. The complaint in this case alleges that IEE has monopolized interstate trade and commerce in rear projection readouts since 1965, and has maintained its monopoly position at least in part by:

(a) Eliminating actual or potential competition through the acquisition of patents, designs, or assets of competitors or potential competitiors;

(b) Duplicating a competitor's product and selling it at extremely low or below cost prices only to those who were considering purchasing said product from such competitor, and then refusing to promote the sale of that product to the industry generally;

(c) Threatening to file or filing patent infringement suits for the purpose of imposing financial burdens upon competitors and injuring their business reputation; and

(d) Employing a propaganda campaign to discredit and injure competitors.

The complaint further alleges that the effect of defendant's conduct has been to enable it to maintain a market share of at least eighty-five per cent of all RPRO devices sold in the United States since 1965; has diminished the competitive viability of the other RPRO producers; other potential manufacturers and sellers of RPRO devices have been discouraged from entering the market; and that IEE's activities have deprived RPRO customers of the opportunity of purchasing in an open and competitive market.

III. *Explanation of the proposed consent judgment.* The United States and the defendant have stipulated that the proposed consent judgment, in the form negotiated by and between the parties, may be entered by the Court at any time after compliance with the Antitrust Procedures and Penalties Act. Under the provisions of section 2(e) of the Act, entry of the proposed consent judgment is conditioned upon a determination by the Court that the proposed judgment is in the public interest.

The proposed consent jugment enjoins IEE from selling RPROs below cost except in those few instances where the sale was made to meet the equally low price of a competitor, or where such sale is incidental to a legitimate close-out of a product previously offered for sale by IEE as a standard product to at least two or more customers. IEE is also prohibited for a period of five years from acquiring or receiving stock or assets of any person engaged in the manufacture of RPRO devices. The Judgment further prohibits IEE, for ten years, from acquiring the exclusive control of any patents, trademarks, designs or know-how covering the manufacture or assembly of RPRO devices, except in the case where the inventor or developer is an employee or agent of IEE. IEE is ordered to establish and distribute to all IEE personnel a written policy prohibiting such personnel, under penalty of immediate dismissal, from the making or authorizing of any statement, known or believed to be false, discrediting or disparaging any person engaged in the manufacture or sale of RPRO devices.

IEE is required to grant irrevocable royalty-free, unrestricted licenses to make, have made, use or sell the subject matter of IEE's RPRO patents, and is enjoined from bringing any patent infringement action against any such licensee on the ground that any RPROs made, made for, used or sold by said person infringed IEE's patents.

For a period of five years, IEE must furnish know-how used or useful to practice the subject matter claimed under IEE's RPRO patents at a price not exceeding IEE's cost of assembling and reproducing such know-how. However, the proposed judgment does not require that IEE furnish know-how specificially directed to and developed in connection with an RPRO invention or improvement covered by any patent issued to IEE after the date of entry of the proposed consent judgment. IEE is not required to provide know-how to any person owned or controlled by another person whose principal place of business or permanent residence is not within the United States, and IEE may require any person receiving its know-how pursuant to the Judgment to agree not to disclose such know-how to any person whose principal place of business or permanent residence is outside of the United States.

By its terms the proposed consent judgment applies to the defendant IEE and to each of its officers, directors, agents, employees, subsidiaries, successors and assigns, and to all other persons who act in concert with any of them, and who shall have received actual notice of the judgment by personal service or otherwise.

IV. *The effect of the proposed consent judgment.* The objective of the proposed consent judgment is to prevent the recurrence of the alleged illegal practices charged in the complaint, and to take affirmative steps to foster potential and existing competition which may have been foreclosed. By prohibiting IEE from selling below its cost, the use of a major device allegedly employed by IEE in the past to prevent the growth of competition is halted, and by eliminating the threat of patent infringement suits, another major impediment to new competition is removed. The availability of IEE's know-how plus the unrestricted royalty-free licenses it is required to grant, should encourage competitors to enter into the market and to conduct advanced research. By prohibiting IEE from acquiring either the RPRO devices, patents, trademarks or business of competitors, the elimination of established competitors should be prevented.

V. *Remedies available to potential private litigants.* Section 4 of the Clayton Act (15 U.S.C. 15) provides that any person who has been injured as a result of conduct prohibited by the antitrust laws may bring suit in federal court to recover three times the damages such person has suffered, as well as costs and reasonable attorney fees. Entry of the proposed consent judgment in this proceeding will neither impair nor assist the bringing of any such private antitrust actions. Under the provisions of Section 5(a) of the Clayton Act (15 U.S.C. 16(a)), this consent judgment has no prima facie effect in any subsequent lawsuits which may be brought against this defendant.

VI. *Alternative remedies considered.* This case does not involve any issues of fact or law which might make litigation a more desirable alternative than entry of this proposed consent decree.

The United States considers that the language of the proposed consent judgment contains substantially all the basic relief needed to dissipate the effects of IEE's alleged monopolistic activities, and provides all the relief which was requested in the complaint. Inasmuch as IEE has only one plant, divestiture of plant or equipment by IEE was not deemed necessary. Important technology and know-how in the manufacture and sale of

rear projection readouts will now be readily available to competition, and the removal of the heretofore barriers to entry should attract potential new entrants. The United States does not believe that any relief obtained after a trial—should the United States prevail—would be of any greater competitive significance than that which has been obtained in the proposed consent judgment.

VII. *Procedures available for modification of the proposed judgment.* The proposed consent judgment is subject to a stipulation by and between the United States and IEE which provides that the United States may withdraw its consent to the proposed judgment at any time prior to its entry by the Court. By its terms, the proposed consent judgment provides for retention of jurisdiction of this action in order, among other things, to permit either of the parties thereto to apply to the court for such other orders as may be necessary or appropriate for its modification.

As provided by the Antitrust Procedures and Penalties Act, any person wishing to comment on the judgment may, for a 60-day period, submit written comments to Dwight B. Moore, Chief, Los Angeles Office, Antitrust Division, 1444 United States Courthouse, 312 North Spring Street, Los Angeles, California 9012, who will file with the court and publish in the FEDERAL REGISTER such comments and the Department's response thereto. The Department will evaluate any and all such comments and determine whether there is reason for withdrawal of its consent to the proposed judgment.

VIII. *Other materials.* No materials and documents of the type described in section 2(b) of the Antitrust Procedures and Penalties Act (15 U.S.C. 16(b)) were considered in formulating this proposed judgment, and consequently, none are filed herewith.

Dated: June 29, 1977.

RAYMOND P. HERNACKI,
Attorney, Department of Justice.

[FR Doc.77-19560 Filed 7-8-77;8:45 am]

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409), 5 U.S.C. 552b(e)(3).

CONTENTS

1

AGENCY HOLDING THE MEETING: Commodity Futures Trading Commission.

TIME AND DATE: 10:00 AM July 12, 1977.

PLACE: 2033 K Street, NW., Washington, D.C., 5th Floor Hearing Room.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Portions open to the public: Chicago Board of Trade Application for Designation as a Contract Market in Commercial Paper Loans. Portions closed to the public: Enforcement Matters.

CONTACT PERSON FOR MORE INFORMATION:

Jane Stuckey, 254–6314.

[S-840-77 Filed 7-7-77;11:46 am]

2

AGENCY HOLDING THE MEETING: Commodity Futures Trading Commission.

TIME AND DATE: 11:00 a.m. July 15, 1977.

PLACE: 2033 K Street, NW., Washington, D.C., 8th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Market Surveillance Briefing.

CONTACT PERSON FOR MORE INFORMATION:

Jane Stuckey, 254–6314.

[S-841-77 Filed 7-7-77;11:46 am]

3

AGENCY HOLDING THE MEETING: Federal Communications Commission.

TIME AND DATE: Follows 9:30 a.m., Open Meeting, Tuesday, July 12, 1977.

PLACE: Room 856, 1919 M Street, N.W., Washington, D.C.

STATUS: Closed Commission Meeting.

MATTERS TO BE CONSIDERED:

Agenda, Item No., and Subject

Hearing—1—Draft Decision in the Apple Valley, California revocation proceeding involving BHA Enterprises, licensee of KAVR and KAVR-FM (Docket No. 19844).

Hearing—2—Appeal from a ruling of the Presiding Judge in the Otsego and Plainwell, Michigan FM broadcast proceeding (Docket Nos. 20864 and 20865).

Hearing—3—Draft Decision in the license renewal proceeding involving Leflore Broadcasting Company, Inc. (WSWG–AM) and Dixie Broadcasting Company, Inc. (WSWG–FM), Greenwood, Mississippi (Docket Nos. 20025 and 20026).

Hearing—4—(1) Certification to the Commission by the Administrative Law Judge of the question of consolidation of related proceedings and (2) motions to consolidate the proceedings filed by two Bureaus in the Far Rockaway and Rockaway Park, New York, proceedings concerning suspension of amateur and commercial operator licenses, revocation of amateur station licenses, and applications for amateur station and amateur and commercial operator licenses (Docket Nos. 21102, 21103, 21120, 21121, 21125, 21128, 21129 and 21130).

Hearing—5—Certification to the Commission by the Administrative Law Judge of the question of the propriety of the Chief Safety and Special Radio Services Bureau's ordering the consolidation of two Los Angeles, California, proceedings concerning the revocation of a Citizens license and grant of Amateur license applications in Docket Nos. 21090 and 21131.

Hearing—6—Petition for reconsideration of the designation order in the Washington Metropolitan Area common carrier complaint and forfeiture proceeding (Docket No. 21138).

General—1—Committee for Open Media v. FCC, No. 77-1135 (D.C. Circuit).

CONTACT PERSON FOR MORE INFORMATION:

Samuel M. Sharkey, FCC Public Information Officer, telephone number (202) 632–7260.

Issued: July 5, 1977.

[S-835-77 Filed 7-6-77;2:07 pm]

4

AGENCY HOLDING THE MEETING: Federal Communications Commission.

TIME AND DATE: 9:30 a.m., Tuesday, July 12, 1977.

PLACE: Room 856, 1919 M Street, N.W., Washington, D.C.

STATUS: Open Commission Meeting.

MATTERS TO BE CONSIDERED:

Agenda, Item No., and Subject

General—1—Application for review of dismissal of application for a public coast station by Delta Valley Radiotelephone Co.

Safety and Special Radio Services—1—Amendment of Parts 2 and 97 of the rules to make available to the Amateur Service the call sign block AA1AA through AA0ZZ for assignment to Amateur Extra Class licensees in call sign regions where there are insufficient 1X2 call signs.

Safety and Special Radio Services—2—Amendment of Part 83 of the rules regarding the installation of VHF transmitting apparatus and the performance of transmitter measurements (Docket No. 21028).

Safety and Special Radio Services—3—Amendment of Parts 81 and 83 of the rules relating to marine utility stations and ship stations (Docket Nos. 20638 and 20880).

Safety and Special Radio Services—4—Application for review filed by Police Amateur Radio Team of Westford, Massachusetts of Bureau's action denying request for assignment of call sign W1WPD.

Common Carrier—1—Applications by American Satellite Corporation to: (1) establish and operate satellite channels of communication between Moffett Naval Air Station, California and Barbers Point, Hawaii; (2) construct and operate a transmit/receive earth station at Barbers Point, Hawaii; and (3) modify existing license for Moffett Naval Air Station earth terminal to add frequencies.

Common Carrier—2—Applications by: (1) American Satellite Corp. to establish and operate a 1.544 Mbps satellite channel of communication between Stockton, California and Wahiawa, Hawaii; and (2) Western Union International, Inc., to construct a satellite earth terminal at Wahiawa, and establish Stockton, California and Wahiawa as points of communication.

Common Carrier—3—Commission participation in "regulatory experiments" in conjunction with the Experimental Technology Incentives Program (ETIP) of the National Bureau of Standards, Department of Commerce.

Common Carrier—4—Petition for reconsideration of deferred filing schedule in Docket No. 18128, and request for waiver to defer filing date of Private Line Telegraph—Other filings.

Common Carrier—5—Reconsideration of Commission decision pursuant to U.S. Court of Appeals remand in the matter of: Pacific Telatronics, Inc., concerning revision of Tariff F.C.C. No. 4 (57 F.C.C. 2d 315).

Common Carrier—6—Petition for deferral of review of the Commission's April 7, 1977 Public Notice, Tariff Revisions in Light of Decision in Docket No. 19609, the ATR Case, FCC 77-263, filed by American Television and Communications Corporation.

Common Carrier—7—Applications by RCA American Communications, Inc. for a satellite earth station at Barking Sands, Kauai, Hawaii, a connecting microwave link to Kokee Park, Kauai, Hawaii, and Section 214 authority to provide a data service between Greenbelt, Maryland and Kokee Park.

Common Carrier—8—Petitions for reconsideration and clarification of the Memorandum Opinion, Order and Authorization (Activation Order) authorizing activation of circuits in the Hawaii-3/Transpac-2 Cable System, filed by the American Telephone and Telegraph Company, ITT World Communications Inc., RCA Global Communications, Inc., and Western Union International, Inc.

Common Carrier—9—Western Union Infomaster 300 tariff filing.

Cable Television—1—Petition for Waiver of Section 76.501 of the Commission's Rules jointly filed by Cox Broadcasting Corp., Cox Cable Communications Corp. and Georgia Cablevision Corp.; application for transfer of control of Cable Television Relay Station WAV-640, Georgia Cablevision Corporation, Sweat Mountain, Georgia, to Cox Cable Communications, Inc.; and opposition to petition for waiver and petition to deny transfer jointly filed by NAACP, the ACLU of Georgia and various individual citizen representatives of Atlanta, Georgia.

Cable Television—2—Remand from U.S. Court of Appeals (D.C. Circuit) with respect to Vanhu, Inc., Seattle, Washington, and United Community Antenna Systems, Inc., d/b as Master Cable TV Systems, Seattle, Washington; and petition by KIRO, Inc., for ruling consistent with court mandate and motion for oral argument.

Cable Television—3—Petition for stay and reopening of initial decision filed by Citizens for Cable Awareness in Pennsylvania/Legislative Committee of the Philadelphia Community Cable Coalition, directed against the First Report and Order in Docket No. 20561 (cable television definition proceeding).

Cable Television—4—Petitions for reconsideration, filed jointly by Citizens for Cable Awareness in Pennsylvania and the Legislative Committee of the Philadelphia Community Cable Coalition, of the Bureau's decision released March 11, 1977, No. 79165, relating to applications of Warner Cable of Altoona (Altoona, Pennsylvania).

Cable Television—5—Request for waiver, filed by Wometco Enterprises, Inc., proposed assignee of Station WBTB-TV (Ind., Channel 68) Newark, New Jersey.

Renewal—1—Applications for renewal of licenses for Stations KOLO-AM-TV, KORK-AM-FM, KGNS-TV, KFSA and KBRS, filed by corporations owned and controlled by Don W. Reynolds.

Aural—1—Application of Kingston Broadcasting Company for a new standard broadcast station at Kingston, Tennessee (BP-20056).

Broadcast—1—Reconsideration of amendment of multiple and cross-ownership rules to permit institutional investors to own 5% in corporate broadcast licensees, CATV systems or daily newspapers without attribution of ownership, Docket No. 20520.

Broadcast—2—Discussion of licensing standards for FM noncommercial educational stations.

Complaints and Compliance—1—Request by noncommercial educational FM Station KRNB-FM, Neah Bay, Washington, for waiver of Section 73.503 of the Rules to permit broadcast of "classified" announcements.

CONTACT PERSON FOR MORE INFORMATION:

Samuel M. Sharkey, FCC Public Information Officer, telephone number (202) 632-7260.

Issued: July 5, 1977.

[S-836-77 Filed 7-6-77;2:07 pm]

5

AGENCY HOLDING THE MEETING: Federal Home Loan Bank Board.

TIME AND DATE: 9:30 a.m., July 13, 1977.

PLACE: 320 First Street, N.W., Room 630, Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Robert Marshall (202-376-3012).

MATTERS TO BE CONSIDERED:

Application for Permission to Organize a new Federal Association—Idelio Valdes, et al., Hialeah, Florida.

Branch Office Application—First Federal Savings and Loan Association of Minneapolis, Minneapolis, Minnesota.

Application for Loan Agency—Home Federal Savings and Loan Association of San Diego, San Diego, California.

Application for Limited Facility Branch Office—Civic Federal Savings and Loan Association, San Francisco, California.

Supplemental Report on the Proposal to Amend § 555.4 (Loans on the Security of Real Estate and Savings Accounts).

Service Corporation Application—Western Federal Savings and Loan Association, Denver, Colorado.

No. 46, July 6, 1977.

[S-837 Filed 7-6-77;2:35 pm]

6

AGENCY HOLDING THE MEETING: Federal Home Loan Bank Board.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: Vol. 42, No. 128, page 34404, Tuesday, July 5, 1977.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:30 A.M., July 6, 1977.

PLACE: 320 First Street, N.W., Room 630, Washington, D.C.

STATUS: Open Meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Robert Marshall (202-376-3012).

CHANGES IN THE MEETING: The following items have been added to the agenda for the open portion of the meeting:

Application for Acceleration of the Effective Date of Registration Statement—American Savings and Loan Association, Beverly Hills, California.

Branch Office Application—Home Federal Savings and Loan Association, Marion, Ohio.

No. 45, July 6, 1977.

[S-838-77 Filed 7-6-77;2:35 pm]

7

AGENCY HOLDING THE MEETING: Federal Power Commission.

TIME AND DATE: July 13, 1977, 2:00 p.m.

PLACE: 825 North Capitol Street.

STATUS: Open.

MATTERS TO BE CONSIDERED: (Agenda.)

NOTE.—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION:

Kenneth F. Plumb, Secretary, Telephone (202) 275-4166.

JULY 6, 1977.

The following notice of meeting is published pursuant to Section 3(a) of the Government in the Sunshine Act (Pub. L. No. 94-409), 5 U.S.C. 8552B:

This is a list of the matters to be considered by the Commission. It does not include a listing of all persons relevant to the items on the agenda. However, all public documents may be examined in the Office of Public Information, room 1000.

POWER AGENDA, 7650TH MEETING, JULY 13, 1977, REGULAR MEETING, PART I

P-1.—Docket No. ER77-480, Montaup Electric Company.

P-2.—Docket No. ER77-460, Public Service Company of New Mexico.

P-3.—Docket No. ER77-402, Philadelphia Electric Company.

P-4.—Docket Nos. ER77-411 and ER77-416, Illinois Power Company.

P-5.—Docket No. ER76-556, Boston Edison Company.

P-6.—Docket No. ER77-450, Southern Indiana Gas & Electric Company.

P-7.—Docket No. ER77-453, Union Electric Company.

P-8.—Docket No. ER77-464, Public Service Company of New Mexico.

P-9.—Docket No. ER77-468, Metropolitan Edison Company.

P-10.—Docket No. ER77-473, Superior Water, Light and Power Company.

P-11.—Docket No. ER77-346, Indiana & Michigan Electric Company.

P-12.—Docket No. ER77-483, Virginia Electric and Power Company.

P-13.—Docket No. E-9596, Wisconsin Electric Power Company, Wisconsin Michigan Electric Company.

P-14.—Docket No. ER77-377, Connecticut Valley Electric Company.

P-15.—Docket No. ER76-543, Southwestern Public Service Company.

P-16.—Docket No. ER77-487, Toledo Edison Company.

P-17.—Docket No. ER77-485, Carolina Power and Light Company.

P-18.—Docket No. ER77-488, El Paso Electric Company.

P-19.—Docket No. ER77-482, Michigan Power Company.

P-20.—Docket No. ER77-52, Consolidated Edison Company.

P-21.—Docket No. E-7743, Connecticut Light and Power Company.

P-22.—Docket Nos. E-9420 and E-9421, Yankee Atomic Electric Company and Public Service Company of New Hampshire.

P-23.—Docket No. E-8615, Louisiana Power and Light Company.

P-24.—Docket No. ER76-709, Cincinnati Gas and Electric Company.

P-25.—Project No. 2146, Alabama Power Company.

P-26.—Project No. 796, City of Phoenix,

Arizona.

P-27.—Project No. 5, The Montana Power Company.

P-28.—Project No. 2545, The Washington Water Power Company.

P-29.—Project No. 2413, Georgia Power Company.

P-30.—Project No. 201, Alaska City of Petersburg.

P-31.—Project No. 2545, Washington The Washington Water Power Company.

P-32.—Project No. 848, Wells Rural Electric Company.

P-33.—Project No. 405, The Susquehanna Power Company, Philadelphia Electric Power Company.

P-34.—Docket No. E-9104, Nevada Power Company.

MISCELLANEOUS AGENDA, 7650TH MEETING, JULY 13, 1977, REGULAR MEETING, PART I

M-1.—Docket No. RM77-, filing of rate schedules.

M-2.—Docket No. RM77-18, change in procedure concerning applications under Part I of the Federal Power Act.

GAS AGENDA, 7650TH MEETING—JULY 13, 1977, REGULAR MEETING, PART I

G-1.—Docket No. RP76-159, Columbia Gas Transmission Corporation.

G-2.—Docket Nos. RP73-107 and RP74-90, Consolidated Gas Supply Corporation.

G-3.—Docket Nos. RP74-20, RP74-83, United Gas Pipe Line Company.

G-4.—Docket No. RP74-25, Texas Gas Transmission Corporation.

G-5.—Docket No. RP75-74, Transwestern Pipeline Company.

G-6.—Docket No. RP77-18, El Paso Natural Gas Company.

G-7.—Docket No. RP77-5, Kansas-Nebraska Natural Gas Company, Inc.

G-8.—Docket No. RP76-31, Louisiana-Nevada Transit Company.

G-9.—Docket Nos. RP71-130, RP72-58, RP75-111, Texas Eastern Transmission Corporation.

G-10.—Docket No. RP77-52, Northern Natural Gas Company.

G-11.—Docket No. RP76-86, General Motors Corporation v. Natural Gas Pipeline Company of America.

G-12.—Docket No. RP73-43 (PGA77-2), Mid Louisiana Gas Company; Docket No. CI77-273, Gulf Oil Corporation; Docket No. CP77-352, Grand Bay Company.

G-13.—Docket Nos. RI76-35 and CI76-804, Continental Oil Company; Docket Nos. RI76-51 and CI76-805, Cities Service Oil Company; Docket Nos. RI76-42 and CI76-802, Getty Oil Company.

G-14.—Docket No. RI77-59, Martin Exploration Company.

G-15.—Docket No. RI76-153, Joseph P. Mueller.

G-16.—Docket No. RI77-23, Michel T. Halbounty, et al.

G-17.—Docket No. RI77-65, Atlantic Richfield Company.

G-18.—Shell Oil Company, FPC Gas Rate Schedule No. 10.

G-19.—Docket No. CI77-93, Monsanto Company, et al.

G-20.—Docket No. CI77-298, Tenneco Inc., AMOCO Production Company, et al.

G-21.—Docket No. CI77- , Gulf Oil Corporation.

G-22.—Docket No. CI75-420, Chevron U.S.A. Inc.

G-23.—Docket No. CI76-806, Pennzoil Offshore Gas Operators, Inc.

G-24.—Docket No. CP74-299, Kansas-Nebraska Natural Gas Company, Inc.

G-25.—Docket No. CP77-206, Texas Eastern Transmission Corporation.

G-26.—Docket Nos. CP74-160, CP74-207, Pacific Indonesia LNG Company; Docket No. CP75-83-3, Western LNG Terminal Company, et al.

G-27.—Docket No. CP77-286, Transcontinental Gas Pipe Line Corporation; Docket No. CP77-316, United Gas Pipe Line Company.

G-28.—Docket Nos. CP70-196 and CP74-227, Distrigas Corporation; Docket No. CP73-135 and CP74-137, Distrigas of Massachusetts Corporation.

G-29.—Docket Nos. CP74-289, CP73-334, CP75-360, El Paso Natural Gas Company.

G-30.—Docket No. CP77-140, Delhi Gas Pipeline Corporation; Docket No. CP77-307, Northern Natural Gas Company; Docket No. CP77-328, Natural Gas Pipeline Company of America.

G-31.—Docket No. CP71-68, Columbia LNG Corporation; Docket No. CP71-153, Consolidated System LNG Company; Docket No. CP71-151, Southern Energy Company.

G-32.—Docket No. CP77-263, Northwest Pipeline Corporation.

G-33.—Docket No. CP77-267, Mid Louisiana Gas Company and Transcontinental Gas Pipe Line Corporation.

G-34.—Docket No. CP77-321, Southern Natural Gas Company; Docket No. CP77-344, Transcontinental Gas Pipe Line Corporation.

G-35.—Smyrna, Tennessee; Utica, Mississippi.

G-36.—Docket No. CP77-403, Transcontinental Gas Pipe Line Corporation.

G-37.—Docket No. CP77-417, Trancontinental Gas Pipe Line Corporation.

G-38.—(A) Docket No. CP66-235, Columbia Gas Transmission Corporation Successor to Atlantic Seaboard Corporation. (B) Docket No. CP77-341, Columbia Gas Transmission Corporation. (C) Docket No. CP77-339, Columbia Gas Transmission Corporation.

G-39.—Docket No. CP71-32, Natural Gas Pipeline Company of America.

G-40.—Docket No. CP77-357, Stingray Pipeline Company.

G-41.—Docket No. CP77-326, Columbia Gulf Transmission Company; Docket No. CP77-348, Columbia Gulf Transmission Company, Northern Natural Gas Company, Tennessee Gas Pipeline Company, A Division of Tenneco, Inc.; Docket No. CP77-365, Sea Robin Pipeline Company, Columbia Gas Transmission Corporation, Columbia Gulf Transmission Company.

G-42.—Docket No. CP74-296, National Fuel Gas Supply Corporation.

G-43.—Docket No. CP75-559, Columbia Gulf Transmission Company, Northern Natural Gas Company, Tennessee Gas Pipeline Company.

G-44.—Docket No. CP77-361, Sea Robin Pipeline Company.

G-45.—Docket No. CP77-351, United Gas Pipeline Company.

G-46.—Docket No. CP64-89, Cities Service Gas Company.

G-47.—Docket No. CP77-385, Northern Natural Gas Company.

G-48.—Docket No. CP77-354, Columbia Gas Transmission Corporation.

G-49.—Docket No. CP73-95, Columbia Gas Transmission Corporation.

G-50.—Docket No. CP77-336, Consolidated Gas Supply Corporation.

G-51.—Docket No. CP77-398, Columbia Gas Transmission Corporation.

G-52.—Docket No. CP77-333, Texas Gas Transmission Corporation.

G-53.—Docket No. RP77-43, City of Tallahassee, Florida Complainants vs. Florida Gas Transmission Company Respondent.

G-54.—Docket Nos. CP77-369 and CP77-370, Transcontinental Gas Pipe Line Corporation.

G-55.—Morganza, Louisiana, Starks Water and Gas Company.

G-56.—Docket No. RI73-60, Mitchell Energy Corporation.

POWER AGENDA, 7650TH MEETING, JULY 13, 1977, REGULAR MEETING, PART II

CP-1.—Docket Nos. ER77-227, ER77-228, ER77-229 and ER77-395, Arizona Public Service Company.

CP-2.—Docket No. ER77-401, Otter Tail Power Company.

CP-3.—Docket No. ER77-463, Central Telephone & Utilities Corporation, Western Division.

CP-4.—Docket No. ER77-452, Monongahela Power Company.

CP-5.—Docket Nos. ER77-433 and ER77-438, Niagara Mohawk Power Corporation.

CP-6.—Docket No. ER77-276, Niagara Mohawk Power Corporation.

CP-7.—Project No. 2775, Brown Company.

CP-8.—Project No. 2628, Alabama Power Company.

CP-9.—Project No. 2146, Alabama Power Company.

CP-10.—Project No. 199, South Carolina Public Service Authority.

CP-11.—State Director, Bureau of Land Management, Washington (OR-17402, (Wash.).)

CP-12.—State Director, Bureau of Land Management, Idaho (I-12853).

CP-13.—State Director, Bureau of Land Management, Utah (U-34239, U-34644).

CP-14.—State Director, Bureau of Land Management, Idaho (I-12528).

CP-15.—Docket No. E-9584, City of Santa Barbara, California.

MISCELLANEOUS AGENDA, 7650TH MEETING, JULY 13, 1977, REGULAR MEETING, PART II

CM-1.—Pennsylvania Power Company.

CM-2.—Missouri Utilities Company.

CM-3.—California Pacific Utilities Company.

CM-4.—Florida Public Utilities Company.

CM-5.—The Blackstone Valley Electric Company.

CM-6.—The Dayton Power and Light Company.

CM-7.—Ohio Edison Company.

CM-8.—Minnesota Power and Light Company.

GAS AGENDA, 7650TH MEETING, JULY 13, 1977, REGULAR MEETING, PART II

CG-1.—Docket No. RP72-155 and RP76-59, El Paso Natural Gas Company.

CG-2.—Docket No. RP72-122, Colorado Interstate Gas Company.

CG-3.—Docket No. RP77-103, Algonquin Gas Transmission Company.

CG-4.—Docket No. CP74-33, Transcontinental Gas Pipe Line Corporation.

CG-5.—Docket No. RP72-157, Consolidated Gas Supply Corporation.

CG-6.—Docket No. RP72-157, Consolidated Gas Supply Corporation.

CG-7.—Docket No. RP72-142, Cities Service Gas Company.

CG-8.—Docket No. CP77-356, Panhandle Eastern Pipe Line Company.

CG-9.—Docket No. CP77-224, Panhandle Eastern Pipe Line Company.

CG-10.—Docket No. CP76-519, Rocky Mountain Natural Gas Company, Inc.; Docket No. CP77-72, Colorado Interstate Gas Company; Mountain Fuel Resources, Inc., Mountain Fuel Supply Company.

CG-11.—Docket No. CP77-350, Mississippi River Transmission Corporation.

CG-12.—Docket No. CP77-373, Michigan Wisconsin Pipe Line Company.

CG-13.—Docket No. CP77-380, Northwest Pipeline Corporation.

CG-14.—Docket No. CP73-237, Colorado Interstate Gas Company.

CG-15.—Dockets Nos. RP76-52 and RP74-102 (Volumetric Limitations), Northern Natural Gas Company.

CG–16.—Docket No. RP74–100 (PGA77–5 and PGA77–5A), National Fuel Gas Supply Corporation.

KENNETH F. PLUMB,
Secretary.

[S–839–77 Filed 7–7–77;11:46 am]

8

AGENCY HOLDING THE MEETING: United States Parole Commission—National Commissioners (the three Commissioners presently maintaining offices at Washington, D.C. Headquarters).

TIME AND DATE: Tuesday, July 12, 1977; 9:30 a.m.

PLACE: Room 338 Federal Home Loan Bank Board Building, 320 First Street, NW., Washington, D.C. 20537.

STATUS: Closed—Pursuant to 5 U.S.C. 552b(c)(10) and 28 C.F.R. 16.205(b)(1).

MATTERS TO BE CONSIDERED: Referrals from regional directors of approximately 15 cases in which inmates of Federal Prisons have applied for parole or are contesting revocation of parole or mandatory release.

CONTACT PERSONS FOR MORE INFORMATION:

Lee H. Chait, Analyst, NAB, 202–724–3094.

[S–843–77 Filed 7–7–77;3:13 pm]

federal register

MONDAY, JULY 11, 1977
PART II

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Insurance Administration

■

FLOOD ELEVATION DETERMINATIONS

Proposed Rulemaking

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Insurance Administration

[24 CFR Part 1917]

[Docket No. FI-2853]

CITY OF CLARKSBURG, W. VA.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the City of Clarksburg, West Virginia. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The perod for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the City Hall, Clarksburg, West Virginia. Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor S. James Schaffer, Jr., City Hall, Clarksburg, West Virginia 26301.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Clarksburg, West Virginia in according with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
West Fork River	Route 50	942
	Route 19	942
	Abandoned B. & O. tracks	948
	B. & O. tracks	949
Elk Creek	Routes 19 and 20	944
	Sycamore St.	947
	4th St.	950
	Pike St.	953
	Haymond St.	958
	East Main St.	961
	Approach to Route 50	963

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: April 13, 1977.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.77-19132 Filed 7-8-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-2857]

TOWNSHIP OF WHITEHALL, LEHIGH COUNTY, PA.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Township of Whitehall, Lehigh County, Pennsylvania. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the Township Building Lobby, 3219 McArthur Road, Whitehall, Pennsylvania. Any person having knowledge, information, or wishing to make comment on these proposed elevations should immediately notify Mr. Edward J. Galgon, Township Executive of Whitehall, 3219 McArthur Road, Whitehall, Pennsylvania 18052.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line 800–424–8872), Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Township of Whitehall, Lehigh County, Pennsylvania in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet above mean sea level
Lehigh River	Downstream corporate limits.	264
	Lehigh Valley Throughway.	268
	Bridge St.	271
	Abandoned railroad bridge.	275
	Pine St.	276
	Confluence with tributary.	277
	Confluence with Coplay Creek.	277
	Lehigh St.	284
	Dam just upstream of Lehigh St.	286
	Next upstream corporate limits.	287
	do.	290
	Northampton Dam	296
	Main St.	300
	Confluence with Spring Creek.	302
	Upstream corporate limits.	302
Jordan Creek	Downstream corporate limits.	260
	5th St.	264
	MacArthur Rd. (State Route 145).	268
	Lehigh Valley Throughway.	275
	Mickley Rd.	286
	Next upstream corporate limits.	302
	do.	308
	Upstream corporate limits.	310

Source of flooding	Location	Elevation in feet above mean sea level
Coplay Creek	Mouth at Lehigh River.	280
	Con Rail	281
	Ironton RR	283
	Abandoned railroad bridge.	293
	Con Rail	294
	Lehigh St	295
	Ironton RR	296
	do	300
	Confluence with tributary.	308
	Center St	313
	Columbia St	322
	MacArthur Rd. (State Route 145).	328
	Ironton RR	334
	Upstream limit of detailed study.	336

(National Flood Insurance Act of 1068 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, Novefnber 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974.))

Issued: April 13, 1977.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.77-19133 Filed 7-8-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-2858]

BOROUGH OF SELLERSVILLE, BUCKS COUNTY, PA.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Borough of Sellersville, Bucks County, Pennsylvania. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the Municipal Building, 140 East Church Street, Sellersville, Pennsylvania. Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. Richard Coll, Borough Manager of Sellersville, 140 East Church Street, Sellersville, Pennsylvania 18960.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Borough of Sellersville, Bucks County, Pennsylvania in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
East Branch, Perkiomen Creek.	Downstream corporate limits.	302
	Main Street Bridge	305
	Upstream corporate limits.	308

(National Flood Insurance Act of 1968 (Title XIIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by (39 FR 2787, January 24, 1974).)

Issued: April 13, 1977.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.77-19128 Filed 7-8-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-2854]

TOWNSHIP OF STONY CREEK, CAMBRIA COUNTY, PA.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Township of Stony Creek, Cambria County, Pennsylvania. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the Township Municipal Building, 1610 Bedford Street, Johnstown, Pennsylvania. Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Ms. June Rose, Secretary of the Board of Commissioners, Townsfip Municipal Building, 1610 Bedford Street, Johnstown, Pennsylvania 15902.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Township of Stony Creek, Cambria County, Pennsylvania in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet above mean sea level
Stony Creek	Downstream corporate limits.	1,196
	Approximately 3,220 ft above downstream corporate limits.	1,200
	At Federal St. (extended).	1,205
	At Riverside St. (extended).	1,210
	2,375 ft downstream of Conveyor Bridge.	1,215
	900 ft downstream of Conveyor Bridge.	1,220
	At Conveyor Bridge	1,225
	900 ft upstream of Conveyor Bridge.	1,230
	1,500 ft downstream of upstream corporate limits.	1,235
	At upstream corporate limits.	1,240

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by (39 FR 2787, January 24, 1974).)

Issued: April 13, 1977.

J. ROBERT HUNTER,
Acting Federal
Insurance Administrator.

[FR Doc.77–19129 Filed 7–8–77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI–2855]

BOROUGH OF DRIFTWOOD, CAMERON COUNTY, PA.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Borough of Driftwood, Cameron County, Pennsylvania.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the Borough Building, Driftwood, Pennsylvania.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. Cal Hugar, President of the Borough Council of Driftwood, Box 235, Driftwood, Pennsylvania.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, Southwest, Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Borough of Driftwood, Cameron County, Pennsylvania in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet above mean sea level
Sinnemahoning Creek.	Downstream corporate limits.	809
	Confluence with Bennets Branch and Driftwood Branch.	810
Driftwood Branch, Sinnemahoning Creek.	Confluence with Bennets Branch and Sinnemahoning Creek.	810
	100 ft upstream of Route 555 Bridge.	814
	At Clinton St. (extended).	817
	750 ft downstream Con Rail Bridge.	820
	180 ft downstream Con Rail Bridge.	821
	25 ft upstream Con-Rail Bridge.	822
	290 ft upstream Con Rail Bridge.	825
	1,225 ft upstream Con Rail Bridge.	826
	1,960 ft upstream Con Rail Bridge.	827
Bennetts Branch, Sinnemahoning Creek.	Confluence with Driftwood Branch and Sinnemahoning Creek.	810
	30 ft downstream Castle garden Rd.	811
	30 ft upstream Castle Garden Rd.	814
	50 ft downstream confluence with Boyer Run.	815
Boyer Run	160 ft downstream Con Rail Bridge.	815
	35 ft downstream Con Rail Bridge.	818
	Upstream side of Con Rail Bridge.	821
	25 ft downstream Route 555 Bridge.	835
	25 ft upstream Route 555 Bridge.	840
	220 ft upstream Route 555 Bridge.	844
	725 ft upstream Route 555 Bridge.	867

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by (39 FR 2787, January 24, 1974).)

Issued: April 13, 1977.

J. ROBERT HUNTER,
Acting Federal
Insurance Administrator.

[FR Doc.77–19130 Filed 7–8–77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI–2856]

TOWNSHIP OF CENTER, INDIANA COUNTY, PENNSYLVANIA

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Township of Center, Indiana County, Pennsylvania.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the Township Municipal Building, R.D. 2, Homer City, Center, Pennsylvania.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. Albert Sandy, Secretary of the Board of Supervisors of Center, Box C, Luzerne Mines, Pennsylvania 15754.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Township of Center, Indiana County, Pennsylvania in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet above mean sea level
Two Lick Creek	Township Route 680	981
	State Route 56	1,011
	At Yellow Creek	1,013
	Main St	1,015
	Old U.S. Route 119	1,034
	Railroad Bridge (downstream).	1,037
	Route 119	1,039
Yellow Creek	Corporate limits	1,021
	Legislative Route 32134.	1,025

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by (39 FR 2787, January 24, 1974).)

Issued: April 13, 1977.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.77-19131 Filed 7-8-77;8:45 am]

[24 CFR Part 1917]

[Dockte No. FI-2859]

COUNTY OF POLK, OREGON

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the County of Polk, Oregon.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the Polk County Courthouse, Room 201, Dallas, Oregon.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Ms. Allene Kettleson, Polk County Courthouse, Room 201, Dallas, Oregon 97338.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, Southwest, Washington, DC 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the County of Polk, Oregon, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Rock Creek	County Rd. 683	329
	County Rd. 687	346
South Yamhill River.	County Rd. 681	331
	SR 18 and 22 east of Valley Junction.	294
	SR 18 and 22 west of Fort Hill.	280
	County Rd. 674	270
	Dallas Coast Highway.	243
Rickreall Creek	Fir Villa Rd	265
	Bowersville Rd	235
	Pacific Highway West.	200
	Greenwood Rd	168
	Route 51	153
Willamette River	Power line crossing near Lincoln Parks.	125
	Power line crossing 0.5 miles west of Winona.	145

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: April 13, 1977.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.77-19135 Filed 7-8-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-2860]

BOROUGH OF MANVILLE, NEW JERSEY

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Borough of Manville, New Jersey.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the Borough Hall, 101 South Main Street, Manville, New Jersey.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor Albert R. Palfy, Borough Hall, 101 South Main Street, Manville, New Jersey 08835.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, Southwest, Washington, DC 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Borough of Manville, New Jersey in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Raritan River	North Main St.	45
	Lehigh Valley RR.	42
Millstone River	Wilhousky St.	41
Royce Brook	South Main St.	41

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: April 13, 1977.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.77–19127 Filed 7–8–77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI–2861]

BOROUGH OF LODI, NEW JERSEY

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Borough of Lodi, New Jersey.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the Borough Hall Annex, 59 Main Street, Lodi, New Jersey.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor Chris M. Paci, Borough Hall Annex, 59 Main Street, Lodi, New Jersey 07644.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, Southwest, Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Borough of Lodi, New Jersey in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Saddle River	Terrace Ave.	22.6
	Route 46	32.0
	Interstate 80	39.8

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: April 13, 1977.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.77–19126 Filed 7–8–77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI–2862]

TOWNSHIP OF DOWNE, NEW JERSEY

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Township of Downe, New Jersey.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at Landing Road, Newport, New Jersey.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor Talbert Blizzard, Landing Road, Newport, New Jersey 08345.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line, 800–424–8872, Room 5270, 451 Seventh Street S.W., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator

gives notice of the proposed determinations of base flood elevations (100-year flood) for the Township of Downe, New Jersey in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4218, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents. The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Delaware Bay	Bayview Rd.[1]	9
	Money Island Rd.[1]	9
	Newport Neck Rd.[1]	9
	Gandy Rd.[1]	9

[1] Entire length.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: April 13, 1977.

J. ROBERT HUNTER,
Acting Federal
Insurance Administrator.

[FR Doc.77-19125 Filed 7-8-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-2863]

CITY OF SPRINGFIELD, NEBRASKA

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the city of Springfield, Nebraska.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the City Hall, Springfield, Nebraska.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor Allen Kreifeld, City Hall, Springfield, Nebraska 68059.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or Toll Free Line, 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Springfield, Nebraska, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents. The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Springfield Creek	County Road Bridge (south of Main St.).	1,042
	Main Street Bridge	1,051
	County Road Bridge (north of Main St.).	1,058

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: April 13, 1977.

J. ROBERT HUNTER,
Acting Federal
Insurance Administrator.

[FR Doc.77-19124 Filed 7-8-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-2865]

CITY OF FERRYSBURG, MICHIGAN

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the City of Ferrysburg, Michigan.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the City Hall, Ferrysburg, Michigan.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor Jack Olthoff, City Hall, Ferryburg, Michigan 49409.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or Toll Free Line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Ferrysburg, Michigan in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent

in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents. The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Grand River	Route 31	584

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: April 13, 1977.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.77-19122 Filed 7-8-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-2866]

VILLAGE OF GRAND BEACH, MICHIGAN

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Village of Grand Beach, Michigan.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the Village Hall, Village of Grand Beach, New Buffalo, Michigan.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Ms. Louise Krejcki, Village Hall, Village of Grand Beach, Box 175, New Buffalo, Michigan 49117.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line, 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Village of Grand Beach, Michigan in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents. The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Taylor Creek	Crescent Rd.	595
	Station Rd.	607

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: April 13, 1977.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.77-19123 Filed 7-8-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-2867]

TOWN OF CANTON, MASSACHUSETTS

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Town of Canton, Massachusetts.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the Memorial Hall, Canton, Massachusetts.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. Daniel J. Flood, Board of Selectmen, Memorial Hall, Canton, Mass., 02021.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line, 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Town of Canton, Massachusetts, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents. The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Neponset River	Access road	45
	Route 128 North	45
	Route 128 South	45
	Green Lodge Street Bridge.	47
	Railroad Bridge	48
	Dedham Street Bridge.	48
	Route 95 South	48
	Route 95 North	48
	Neponset Street Bridge.	48
	Route 95 North	48
	Route 95 South	48
Canton River	Neponset St	58
	Revere Ct	89

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: April 13, 1977.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.77-19120 Filed 7-8-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-2868]

CITY OF NEWBURYPORT, MASSACHUSETTS

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the City of Newburyport, Massachusetts.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the City Hall, Newburyport, Massachusetts.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor Bryon J. Matthews, City Hall, Newburyport, Massachusetts 01950.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line, 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Newburyport, Massachusetts in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents. The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Merrimack River	Route 95	11
	Route 1	10

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: April 13, 1977.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.77-19121 Filed 7-8-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-2869]

STEPHENSON COUNTY, ILLINOIS

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the County of Stephenson, Illinois.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the County Courthouse, 15 North Galena Avenue, Freeport, Illinois.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. Dean Amendt, County Courthouse, 15 North Galena Avenue, Freeport, Illinois 61032.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line, 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the County of Stephenson, Illinois in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents. The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Pocatonica River	Farwell Bridge	748
	Chicago & North Western RR.	755
	Chicago, Milwaukee, St. Paul & Pacific RR.	762
	Illinois Central Gulf RR.	767
	North Damascus Rd.	772
	West McConnell Rd.	779
	West Winslow Rd.	785

(National Flood Insurance Act of 1968 Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: April 13, 1977.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.77-19119 Filed 7-8-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-2870]

CITY OF LAFAYETTE, GEORGIA

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the City of Lafayette, Georgia.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the City Hall, Lafayette, Georgia 30728.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor Grady MacCalmon, City Hall, P.O. Box 89, Lafayette, Georgia, 30728.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, (202) 755-5581 or Toll Free Line (800) 424-8872, Room 5270, 451 Seventh Street, Southwest, Washington, DC 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Lafayette, Georgia in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Town Creek	Warthen St	789
	Villanow St	780
Chattooga Creek tributary.	Broomton Rd.[1]	790
	Central of Georgia RR.[2]	778
	Barwick-Lafayette Airport.[1]	769
Spring Creek	Probasco St.[2]	846
	do[1]	841
	Villanow St.[2]	788
	do[1]	787
	McLemore St.[2]	778
	do[1]	775
Spring Creek tributary No. 1.	West Main St	826
	Magnolia St.[2]	792
	do[1]	790
	Central of Georgia RR.[2]	778
	do[1]	776
Spring Creek tributary No. 2.	2nd St	798
	1st St.[2]	792
Town Creek tributary No. 1.	Foster Mill Rd.	813
Town Creek tributary No. 2.	Rhyne Rd.[2]	818
	do[1]	815
	Broken Earth Dam	795
	Warthen St	790

[1] Downstream side.
[2] Upstream side.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: April 13, 1977.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.77-19117 Filed 7-8-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-2871]

CITY OF ACWORTH, GEORGIA

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administrations, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the City of Acworth, Georgia.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the City Hall, 4375 Senator Russell Square, Acworth, Georgia.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor W. L. Summey, City Hall, 4375 Senator Russell Square, Acworth, Georgia 30101.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or Toll Free Line 800-424-8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Acworth, Georgia in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the sec-

ond layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Tanyard Creek	Acworth Dr.	863
	Cherokee St.	869
	Cowan Rd.	889
Butler Creek	Nasce Rd.	861
Proctor Creek	Highway 293	861

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: April 13, 1977.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.77-19116 Filed 7-8-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-2872]

CITY OF ALPHARETTA, GEORGIA

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the City of Alpharetta, Georgia.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the City Hall, 12 South Main Street, Alpharetta, Georgia 30201.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor Randall Moore, City Hall, 12 South Main Street, Alpharetta, Georgia 30201.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, Southwest, Washington, DC 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Alpharetta, Georgia, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Big Creek	Haynes Bridge Rd.	970
	Kimball Bridge Rd.	977
	State Bridge Rd.	984
	Webb Bridge Rd.	988
	Shirley Bridge Rd.	994
Fox Killer Creek	Rocky Mi l Way Rd.	967
	Rucker Rd.	1,032
	Mid Broadwell Rd.	1,055
	Mayfield Rd.	1,070
Camp Creek	Union Hill Rd.	983
Caney Creek	Shirley Bridge extension.	1,007
Tributary 2	Rock Mill Rd.	988
	State Route 400 (Turner McDonald Parkway).	990
	Michael Dr. extension.	1,024
Tributary 3	Rock Mill Rd.	990
Tributary 5	State Bridge Rd.	995
	State Route 400 (Turner McDonald Parkway).	1,005
	Webb Bridge Rd.	1,010
	Union Hill Rd.	1,032
Tributary 6	Webb Bridge Rd.	1,019

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: April 13, 1977.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.77-19115 Filed 7-8-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-2873]

CITY OF MARIETTA, GEORGIA

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the City of Marietta, Georgia.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the City Hall, 36 Atlanta Street, Marietta, Georgia 30060.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor Dana Eastham, City Hall, 36 Atlanta Street, Marietta, Georgia 30060.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, Southwest, Washington, DC 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Marietta, Georgia in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new

buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Slope Branch	Apachee St	1,065
	Fairground St	1,039
	Driveway Bridge	1,022
Elizabeth Branch	Interstate 75 [1]	1,055
	Interstate 75 [2]	1,050
	Overbrook Circle	1,032
	Allgood Rd	1,015
Slope Creek	U.S. Highway 41	1,010
	Interstate 75	1,012
	Barnes Mill Rd	987
	Roswell Rd	973
Hope Creek	Loop 120	975
	Interstate 75	963
Rottenwood Creek	Barclay Circle	1,007
	U.S. Hithway 41	955
	Franklin Rd	944
	Delk Rd	929
Olley Creek	Bellemeade Rd	987
	Cunningham Rd	977
West Side Branch	Polk St	1,053
	Whitlock Ave	1,037
Ward Creek	Maxwell Ave	1,041
	Kilpatrick Ave	1,009
Noes Creek	Kennesaw Ave	1,079
	Burnt Hickory Rd	1,007

[1] Upstream side.
[2] Downstream side.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: April 13, 1977.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.77-19118 Filed 7-8-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-2874]

CITY OF DANIA, FLORIDA

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the City of Dania, Florida.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the City Hall, 100 West Beach Boulevard, Dania, Florida 33004.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor John Bertino, City Hall, 100 West Beach Boulevard, Dania, Florida 33004.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, Southwest, Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Dania, Florida in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Atlantic Ocean	6th Ave. NE. and 2d Pl. NE.	8
	5th Ave. NE. and 2d St. NE.	8
	Dania Beach Blvd. and 2d Ave. SE.	8
	2d Ave. SE. and 2d St. SE.	8
	2d Ave. SE. and 7th St. SE.	8
	2d Ave. SE. and 15th St. SE.	8
	3d Ave. SE. and 4th Pl. SE.	8
Rainfall runoff	Dania Beach Blvd. and 8th Ave. NW.	7
	10th St. NW. and 6th Ave. NW.	7
	10th St. NW. and 9th Ave. SW.	7
	14th Ave. NW. and 8th St. NW.	7

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: April 13, 1977.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.77-19114 Filed 7-8-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-2875]

CITY OF COMMERCE CITY, COLORADO

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the City of Commerce City, Colorado.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the City Hall, 5291 East 60th Avenue, Commerce City, Colorado 80022.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor Allen Williams, City Hall, 5291 East 60th Avenue, Commerce City, Colorado 80022.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Commerce City, Colorado in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Sand Creek	Brighton Blvd.	5,147
	Chicago Burl & Quincy R.R.	5,150
	Union Pacific R.R.	5,150
	do	5,151
	Chicago Burl & Quincy R.R.	5,157
	Vasquez Blvd. (U.S. 6 and 85).	5,163
	Dahlia St.	5,169
	49th Dr.	5,214
	49th Ave.	5,222
	Quebec St.	5,230
South Platte River	I-270	5,115
	Northwestern Terminal R.R.	5,126
	York St.	5,128
	Franklin St.	5,137

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: April 13, 1977.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.77-19134 Filed 7-8-77;8:45 am]

federal register

MONDAY, JULY 11, 1977

PART III

ENVIRONMENTAL PROTECTION AGENCY

■

DRINKING WATER AND HEALTH

Recommendations of the National Academy of Sciences

ENVIRONMENTAL PROTECTION AGENCY

[FRL 756-4]

DRINKING WATER AND HEALTH

Recommendations of the National Academy of Sciences

This publication of the recommendations of the National Academy of Sciences (NAS) is made according to the requirements of the Safe Drinking Water Act (Pub. L. 93-523).

The present publication consists essentially of the summary of the NAS report which was delivered to Congress on May 26, 1977. The full report was delivered on June 20, 1977.

The Safe Drinking Water Act (Pub. L. 93-523) was enacted on December 16, 1974, giving the Administrator of the Environmental Protection Agency (EPA) the power to control the quality of the drinking water in public water systems through regulation and other means. The Act called for a three-stage mechanism for the establishment of comprehensive regulations for drinking water quality:

1. Promulgation of National Interim Primary Drinking Water Regulations.
2. A study to be conducted by the National Academy of Sciences, within 2 years of enactment, on the human health effects of exposure to contaminants in drinking water, and
3. Promulgation of Revised National Primary Drinking Water Regulations based upon the NAS report.

National Interim Primary Drinking Water Regulations, pursuant to section 1412(a) of the Act, were promulgated on December 24, 1975, and July 9, 1976, to become effective on June 24, 1977. These were based on the Public Health Service Drinking Water Standards of 1962, as revised by the EPA Advisory Committee on the Revision and Application of the Drinking Water Standards, and contain maximum contaminant levels and monitoring requirements for microbiological contaminants, 10 inorganic chemicals, 6 organic chemicals, radionuclides and tuebidity.

Section 1412(b)(1)(A) of the Act States:

> Within 10 days of the date the report of the study conducted pursuant to subsection (e) is submitted to Congress, the Administrator shall publish in the FEDERAL REGISTER, and provide opportunity for comment on, the—
>
> (i) Proposals in the report for recommended maximum contaminant levels for national primary drinking water regulations, and
>
> (ii) List in the report of contaminants the levels of which cannot be determined but which may have an adverse effect on the health of persons.

In essence, the report of the National Academy of Sciences study should provide health goals for contaminants in drinking water, i.e., levels at which there are no known adverse health effects. The Administrator must then, using the information supplied by the National Academy of Sciences, develop maximum contaminant levels (MCL's) for National Primary Drinking Water Regulations or treatment requirements. In doing so, the Administrator may modify the recommendations of the Academy by incorporating safety factors, by taking economics into account, or for other reasons. The basis for the Administrator's actions will be adequately explained in drinking water regulations subsequently published.

Based on the completed National Academy of Sciences Report and the findings of the Administrator, EPA will publish:

(1) Recommended Maximum Contaminant Levels (health goals) for substances in drinking water which may have adverse effects on humans. These recommended levels will be selected so that no known or anticipated adverse effects would occur, allowing an adequate margin of safety. A list of contaminants which may have adverse effects, but which cannot be accurately measured in water, will also be published.

(2) Revised National Primary Drinking Water Regulations. These will specify MCL's or require the use of treatment techniques. MCL's will be as close to the recommended levels for each contaminant as is feasible. Required treatment techniques for those substances which cannot be measured will reduce their concentrations to a level as close to the recommended level as is feasible. Feasibility is defined in the Act as use of the best technology, treatment techniques and other means which the Administrator finds are generally available (taking costs into consideration).

The recommendations of the National Academy of Sciences follow. The report is prefaced with an explanation of the Academy's interpretation of their responsibilities under the Safe Drinking Water Act, and an outline of the type of recommendations the Academy was able to furnish. The report, entitled "Drinking Water and Health," is a summary of the full report of the Academy's study of contaminants in drinking water. Copies of this summary report are available from the Criteria and Standards Division, Office of Water Supply (WH-550), Environmental Protection Agency, Washington, D.C. 20460. The Academy has scheduled a public meeting July 7, 1977 at 9:00 AM at 2101 Constitution Avenue NW, Washington, D.C. 20418, to discuss the content of the full report.

Copies of the prepublication draft of the full report are available for inspection at the Academy and EPA Headquarters. Telephone 202-755-5643 for additional information.

The public is invited to comment in writing on the Academy's recommendations. All communications should be sent to Dr. Joseph A. Cotruvo, Director, Criteria and Standards Division, Office of Water Supply (WH-550), Environmental Protection Agency, Washington, D.C. 20460. Comments should be received by August 31, 1977, but comments received after that date will be considered as time permits.

Dated: June 30, 1977.

BARBARA BLUM,
Acting Administrator.

THE NATIONAL ACADEMY OF SCIENCES STUDY

LEGISLATION AND TERMS OF REFERENCE OF THE STUDY

The Safe Drinking Water Act of 1974 and the NAS study (Pub. L. 93-523)

PURPOSE OF LEGISLATION

The purpose of the legislation is to assure that the public is provided with an adequate quantity of safe drinking water. It is to assure that water supply systems serving the public meet minimum national standards for protection of public health.

Until passage of the Act, the Federal Government was authorized to prescribe drinking water standards only for water supplies used by interstate carriers, and they were enforceable only with respect to contaminants capable of causing communicable diseases. Pub. L. 93-523 authorized the Environmental Protection Agency to establish Federal standards for protection from all harmful contaminants and established a joint Federal-State system for assuring compliance with these standards and for protecting underground sources of drinking water.

ABRIDGED SUMMARY OF THE LEGISLATION

a. Required the Administrator of EPA to prescribe national drinking water regulations for contaminants which may adversely affect health.

b. *Provided*, That such regulations apply to public water systems and protect health to the maximum extent feasible.

c. *Provided*, That interim primary regulations be prescribed initially and that, after a study by the National Academy of Sciences, health goals were to be established and revised primary regulations promulgated. That portion of the Act pertaining to the NAS study and the scope of work is detailed below.

d. Provided for a number of other requirements and administrative authorizations not directly related to the NAS study.

NEED FOR LEGISLATION

Congressional hearings, EPA studies, and evidence from a number of sources established that legislative authority prior to passage of the Act was inadequate to assure that water supplied to the public was safe to drink.

This conclusion was based on evidence that waterborne disease outbreaks still occur in this country. Examples include an epidemic at Riverside, California in 1965 that affected 18,000 people, an outbreak of gastroenteritis in Angola, New York in 1968 affecting 30 percent of the population and an epidemic of giardiasis in Rome, New York in 1974 affecting almost 5,000 people. According to a 1970 EPA survey of 969 drinking water supply systems, approximately 8 million people in this country are served water that is potentially dangerous in that it failed to meet the mandatory standards set by the Federal Government with respect to interstate carrier systems. The deficiencies in the majority of cases were in smaller systems.

Until passage of the Act there was no provision in Federal law to protect the public from chemical poisoning and none to protect those not traveling on interstate conveyances from being supplied with drinking water which may cause communicable or noncommunicable illness.

Several extensive surveys have shown serious deficiencies in the number of water samples examined and in the bacteriological and chemical quality of drinking water. Many systems had physical deficiencies including poorly protected groundwater sources, inadequate disinfection and clarification capacity. In addition, plant operators were inadequately trained. Plants were not

being inspected by State or local authorities. In one survey, 50 percent of plant officials did not remember when, if ever, they had been surveyed by a State or local health department.

House of Representatives Report No. 93-1185 and Senate Report No. 93-231 and Pub. L. 93-523 are the sources of information for the foregoing.

Pub. L. 93-523 (section 1412(e)) mandated the NAS study as follows:

1. The Administrator shall enter into appropriate arrangements with the National Academy of Sciences (or with another independent scientific organization if appropriate arrangements cannot be made with such Academy) to conduct a study to determine:

A. The maximum contaminant levels which should be recommended in order to protect the health of persons from any known or anticipated adverse effects, and

B. The existence of any contaminants the levels of which in drinking water cannot be determined but which may have an adverse effect on the health of persons.

2. The result of the study shall be reported to Congress no later than 2 years after the date of enactment of this title. The report shall contain:

A. A summary and evaluation of relevant publications and unpublished studies;

B. A statement of methodologies and assumptions for estimating the levels at which adverse health effects may occur;

C. A statement of methodologies and assumptions for estimating the margin of safety which should be incorporated in the national primary drinking water regulations;

D. Proposals for recommended maximum contaminant levels for national primary drinking water regulations;

E. A list of contaminants the level of which in drinking water cannot be determined but which may have an adverse effect on the health of persons; and

F. Recommended studies and test protocols for future research on the health effects of drinking water contaminants, including a list of the major research priorities and estimated costs necessary to conduct such priority research.

3. In developing its proopsals for recommended maximum contaminants levels, the National Academy of Sciences shall evaluate and explain the impact of the following considerations:

A. The existence of groups or individuals in the population which are more susceptible to adverse effects than the normal healthy adult.

B. The exposure to contaminants in other media than drinking water (including exposures in food, in the ambient air, and in occupational settings) and the resulting body burden of contaminants.

C. Synergistic effects resulting from exposure to or interaction by two or more contaminants.

D. The contaminant exposure and body burden levels which alter physiological function or structure in a manner reasonably suspected of increasing the risk of illness.

4. In making the study under this subsection, the National Academy of Sciences (or other organization) shall collect and correlate:

A. Morbidity and mortality data and

B. Monitored data on the quality of drinking water. Any conclusions based on such correlation shall be included in the report of the study.

5. Neither the report of the study under this subsection nor any draft of such report shall be submitted to the Office of Management and Budget or to any other Federal agency (other than the Environmental Protection Agency) prior to its submission to Congress.

6. Of the funds authorized to be appropriated to the Administrator by this title, such amounts as may be required shall be available to carry out the study and take the report.

SCOPE OF WORK

The Academy will undertake to complete the study and report described in section 1412(e) of the Public Health Service Act, as amended by the Safe Drinking Water Act, with the following understanding: The Academy considers that the intent of Congress in using the phrase "maximum contaminant levels which should be recommended * * * in order to protect the health of persons from any known or anticipated adverse effects" is to provide for recommendations that are consistent with the best scientific knowledge. It is the Academy's judgment that from a scientific point of view, the absolute guarantee of safety implied by this language cannot be made for most or all of the contaminants to be studied. The Academy report will explain and discuss this point. Accordingly, with respect to recommended levels, taking only health effects into account, the Academy's report will provide the following:

(1) Where there are sufficient data from which a human dose-response relationship can be projected with some degree of precision, a projection will be made. The projection will be explained and its qualifications will be made explicit.

(2) For contaminants for which the data are of sufficient quantity and quality, the Academy will exercise its scientific judgement and identify and propose contaminant levels for which it anticipates the risk of adverse health effects to be specifiable and very small. The risks at the proposed levels will be described, with an explanation as to why no "safe" level has been identified.

(3) For contaminants for which the evidence provides no scientific basis or methodology for recommending levels, the Academy will describe the available data, and its significance in terms of known or anticipated adverse health effects.

Thus further definition of the scope of work was developed jointly between NAS and EPA.

Summary Report: Drinking Water and Health

INTRODUCTION

The high quality of drinking water in the United States is recognized throughout the world, and popularly endorsed by the freedom with which water is consumed. Nevertheless, mounting concern over the spread of environmental pollution and the application of increasingly sensitive methods of analysis have led to new legislation that seeks to ensure that the quality of drinking water poses no threat to public health.

The Safe Drinking Water Act of 1974 (Pub. L. 93-523) requires the Administrator of the Environmental Protection Agency (EPA) to promulgate national standards for the purity of drinking water and regulations for enforcing them. The Act also directs the Administrator to arrange with the National Academy of Sciences, or other appropriate organization, to study the adverse effects on health attributable to contaminants in drinking water. This report summarizes the result of that study. A précis of the legislation and its background, the objectives of the study, and the names of those who contributed to it are given in the Appendixes.

The primary purpose of the study has been to assess the significance of the adverse effects that the constituents of drinking water may have on public health. The economic or technological feasibility of controlling the concentration of these constituents is outside the scope of the study. The health effects associated with some methods of disinfection have received attention, but the relative effectiveness and potential hazards associated with the various methods of water disinfection have not been evaluated.

Application of analytical methods of great sensitivity has, in recent years, expanded our knowledge of the occurrence and diversity of impurities in drinking water. However, information about the results of chronic ingestion, at low dose rates, of most of these substances is acquired slowly because the bioassays that are usually required may take two or more years to complete. Although new approaches to the problem of estimating chronic adverse health effects may, in the future, ease this difficulty, the current knowledge on which this study is based is insufficient to assess all the contaminants of drinking water. The results reported here must therefore be considered as the first contribution of an effort that should be continued.

GENERAL CONSIDERATIONS

Besides the known constituents of water, we have considered also some that it would be plausible to expect to be present, even though they have not yet been identified. (Certain pesticides used in large quantities fall into this category.)

In our review of water constituents, we have attempted to take into account not only their identities, concentrations, and toxicities, but also have considered other questions, such as:

1. What reason is there for concern about the material? What risks are associated with its presence in water?
2. How does the material get into water?
3. What sources are there other than water?
4. What contaminants need to be controlled?
5. Are there special places or persons at higher than average risk?
6. Are there essential health requirements for this material? (See particularly the discussion of inorganic solutes.)
7. In view of the data at hand, can one say that this is a material that causes temporary ill effects? permanent ill effects? reversible effects?
8. In view of these effects—and their reversibility (or lack of it)—is it possible to set "no-observed-adverse-health-effects" levels?
9. For materials with special health benefits, what concentrations will maximize these benefits, while keeping the health risk, associated with them at an acceptably low level?
10. What additional information is required to resolve the outstanding problems?

Many of the constituents of drinking water occur naturally, and enter water from the rocks and the soil and the air. Some are the natural waste products of men or animals. Others are artificial or synthetic materials, made and used for special purposes, that inadvertently find their way into water. Yet others occur naturally, but have become more widely distributed in populated areas as a result of industrial and agricultural activity.

WATER CONSUMPTION

In this study, the average amount of water consumed per person is assumed to be two liters per day. This is also the amount used by the EPA to calculate the current interim standards. Daily consumption of water is a function of temperature, humidity, physical activity, and other factors that vary widely. Although average water consumption per capita may be estimated from the literature on human physiology and nutrition to be

about 1.6 liters/day, the larger volume of 2 liters/day was adopted as representing the intake of the majority of water consumers. We estimate that most of those who consume volumes larger than 2 liters/day still are afforded adequate protection because the margin of safety estimated for the contaminants is sufficient to offset the increased water consumption. Nevertheless, consideration should be given to establishing some standards on a regional or occupational basis to take extremes of water consumption into account.

SPECIAL CASES

Groups of people who may be more susceptible than average for the whole population are considered in connection with the particular contaminants to which they are sensitive.

This report is concerned only with water that is used for drinking. Although all contaminants may cause problems when present in water used in health care facilities, the health hazards associated with such diverse uses of water as in humidifiers, kidney dialysis units, laundries, heating and cooling equipment, or many special uses that require further treatment of tap water, have not been considered.

FINDINGS OF THE STUDY

SAFETY AND EXTRAPOLATION

The hazards of ingesting chemical pollutants in drinking water can be assessed in two general ways: With epidemiological studies and with laboratory studies of toxicity. The aim of both types is to provide information on the risk to man.

Most of the current knowledge of toxicity is based on observations of the effects on man and animals of doses and dose rates that are much larger than those that correspond to the usual concentrations of harmful materials in drinking water. There is, consequently, great uncertainty in estimating the magnitude of the risk to health that ingestion of contaminants in water may produce. An additional problem is presented by the combined effects of two or more contaminants.

The theoretical and experimental bases for extrapolating estimations of risk to low levels of dose have been reviewed. Some principles are proposed to guide the conduct of this and similar studies.

Large populations are exposed repeatedly, over long periods of time, to minute amounts of potentially toxic contaminants in drinking water. Delayed, essentially irreversible, effects can occur. Methods and criteria of classical conventional toxicology do not always provide reliable means for assessing long-term toxic effects such as carcinogenesis. Extrapolation from animal data to man is uncertain; hence, novel considerations have to be applied to assess risk.

The insidious effects of chronic exposure to low doses of toxic agents are difficult to recognize, because there are few, if any, early warning signs and, when signs are ultimately observed, they often imply irreversible effects. For example, cancer induction in experimental animals, even with the most potent carcinogenic chemicals, requires at least several months and in many instances a whole lifetime. There are at present no easy, straightforward methods for extrapolating even chronic exposure experimental data to calculate risks to large human populations. Teratogenic effects are easier to establish by animal experimentation, but there are similar uncertainties in extrapolating to human populations. Mutagenic effects are difficult to assess experimentally in mammals, and such effects are particularly insidious, in that they appear only in later generations.

Various measures used in assessing acute toxicity—such as LD_{10}, LD_{50}, and maximal tolerated dose—are generally found to be quantitatively similar in most animals. On the basis of dose per unit of body surface, toxic effects in man are in the same range as those in experimental animals, such as mouse, rat, hamster, dog, and monkey. On a body-weight basis, man is generally more vulnerable than the experimental animal, probably by a factor of 6–12. Comparative studies have shown generally that the absorption, metabolism, and excretion of various drugs are slower, dose for dose, in man; that there is greater retention of such drugs; and that higher concentrations occur in body fluids and tissues in man than in small mammals. With an awareness of these quantitative differences, appropriate safety factors can be applied to calculate relatively safe therapeutic dosages for man. These methods and principles of classical toxicology are useful for assessing toxic effects that are reversible and that are not progressive. They are much less useful in dealing with all of the problems of chronic irreversible toxicity or the effects of long-term exposure. This subject has not been considered widely in the past.

From the review of available information, two major questions emerge: "What types of experimental assay procedures are required for a valid assessment of chronic toxicity of chemicals in experimental animals?" "How can such data be extrapolated to estimate risks in humans?" In dealing with these questions, our recommendations are restricted to a specific risk—namely, cancer—with the understanding that the same considerations will apply, at least partially, to the problems of mutagenesis and teratogenesis. Furthermore, we consider only carcinogens whose mechanisms involve somatic mutations.

Some principles that underlie efforts to assess the irreversible effects of long-continued exposure to carcinogenic substances at low dose rates are outlined below.

PRINCIPLE 1

Effects in animals, properly qualified, are applicable to man. This premise underlies all of experimental biology and medicine: But, because it is continually questioned with regard to human cancer, it is desirable to point out that cancer in men and animals is strikingly similar. Virtually every form of human cancer has an experimental counterpart; and every form of multicellular organism is subject to cancer, including insects, fish, and plants. Although there are differences in susceptibility between different animal species, between different strains of the same species, and between individuals of the same strain, carcinogenic chemicals will affect most test species; also large bodies of experimental data indicate that many chemicals that are carcinogenic to animals are likely to be carcinogenic to man, and vice versa.

Evidence that circumstances leading to cancer induction in humans are also applicable to experimental animals stems from the very first observation of chemical carcinogenesis—the appearance of cancer of the scrotum in chimney sweeps, observed by the British surgeon, Percival Pott, in 1775. It was not until modern times that a substance implicated in human cancer was found to be carcinogenic in animals: When Japanese scientists found in 1915 that extracts from coal tar cause cancer when applied to the skin of experimental animals. Many pure carcinogenic chemicals have since been isolated from a wide variety of "tars" derived from incomplete combustion of organic matter, such as coal, wood, and tobacco. There is little doubt that these and other chemicals, alone or in combination, are responsible for the greatly increased incidence of lung cancer among smokers. With the possible exception of arsenic and benzene, all known carcinogens in man are also carcinogenic in some species, although not in all that have been tested. However, all carcinogens in animals are not known to cause cancer in humans.

PRINCIPLE 2

Methods do not now exist to establish a threshold for long-term effects of toxic agents. With respect to carcinogenesis, it seems plausible at first thought, and it has often been argued, that a threshold must exist, below which even the most toxic substance would be harmless. Unfortunately, a threshold cannot be established experimentally that can be applied to a total population. A time-honored practice of classical toxicology is to establish maximal tolerated (no-effect) doses in humans on the basis of finding a no-observed-adverse-effect dose in chronic experiments in animals and to divide this dose by a "safety factor" of, say, 100, to designate a "safe" dose in humans. There is no scientific basis for such estimations of safe doses in connection with carcinogenic effects. For example, even if *no* tumors are obtained in an assay of 100 animals, this means only that at a 95 percent confidence level the true incidence of cancer in this group of animals is less than 3 percent. Even if we were to use 1,000 animals for assay, and no tumors appeared, we could only be 95 percent sure that the true incidence was less than 0.3 percent. Obviously, 0.3 percent is a very high risk for a large human population.

In fact, there are no valid reasons to assume that false-negative results of carcinogenicity tests are much less frequent than false-positive ones. To dismiss all compounds that did not induce tumors in one or two mouse and rat experiments as noncarcinogenic is wrong. Labeling as "carcinogens" all substances that gave rise to increased incidence of tumors is justified only if there is also evidence of a causal relationship. The "relative risk" of compounds that are not found to induce tumors in animal experiments must also be considered. But this requires evaluation of data other than those collected in chronic toxicity studies on rodents.

Experimental bioassays in which even relatively large numbers of animals are used are likely to detect only strong carcinogens. Even when negative results are obtained in such bioassays, it is not certain that the agent tested is unequivocally safe for man. Therefore, we must accept and use possibly fallible measures of estimating hazard to man. This reasoning leads us to the statement of Principles 3 and 4.

PRINCIPLE 3

The exposure of experimental animals to toxic agents in high doses is a necessary and valid method of discovering possible carcinogenic hazards in man. The most commonly expressed objection to regulatory decisions based on carcinogenesis observed in animal experiments is that the high dosages to which animals are exposed have no relevance in assessment of human risks. It is therefore important to clarify this crucial issue.

Practical considerations in the design of experimental model systems require that the number of animals used in experiments on long-term exposure to toxic materials will always be small compared with the size of the human populations similarly at risk. To obtain statistically valid results from such small groups of animals requires the use of relatively large doses so that the effect will occur frequently enough to be detected. For

example, an incidence as low as 0.01 percent would represent 20,000 people in a population of 200 million and would be considered unacceptably high, even if benefits were sizable. To detect such a low incidence in experimental animals directly would require hundreds of thousands of animals. For this reason, we have no choice but to give large doses to relatively small experimental groups and then to use biologically reasonable models in extrapolating the results to estimate risk at low doses. Several methods for making such calculations have been considered and used, but we think that the best method available to us today is to assume that there is no threshold and that a direct proportionality exists between the size of the dose and the incidence of tumors. However, it is important to recognize that such a calculation may give either too small or too large an estimate of risk. The actual risk to humans might be even greater over a human lifetime, because it is about 35 times that of a mouse; and there is evidence that the risk of cancer increases rapidly with the length of exposure. Moreover, experimental assays are conducted under controlled dietary and environmental conditions with genetically homogeneous animals, whereas humans live under diverse conditions, are genetically heterogeneous, and are likely to include subpopulations of unusual susceptibility.

It should be emphasized that these general considerations give only a minimal estimate of human risk; moreover, they do not take into consideration differences in susceptibility between species. For example, beta-naphthylamine is well established as a human carcinogen on the basis of epidemiological studies of occupationally exposed workers, whereas experiments have not shown it to be carcinogenic, for example, in the hamster, which is relatively resistant.

Not all substances that cause a given incidence of cancer in experimental animals are equally carcinogenic for man. This means that results of studies of chronic toxicity, which are imperfect assay systems for carcinogenicity testing, should not be used as the sole criteria in the assessment of risk.

PRINCIPLE 4

Material should be assessed in terms of human risk, rather than as "safe" or "unsafe." The limitations of the current experimental techniques do not allow us to establish safe doses, but with the help of statistical methods we may be able to estimate an upper limit of the risk to human populations. To calculate such a risk, we need data to estimate population exposure: a valid, accurate, precise, and reproducible assay procedure in animals; and appropriate statistical methods. Several general guidelines may be presented. First, no rigid, generally applicable procedure can be recommended for testing all toxic agents. Substances differ too much in their overall effects, and it will ultimately have to be left to the well-informed judgment of expert investigators to design appropriate assays. If substances that affect large populations are found to be carcinogenic, experiments of much wider scope may have to be conducted, to obtain more detailed information on their possible effects in humans. As a pragmatic guideline, it would be desirable to test a compound for carcinogenicity in at least two species, such as the mouse and the rat, and the strains of animals used should have a rather low incidence of spontaneous tumors under the conditions of the test. It is important to include "positive" controls, with known carcinogens, under the same conditions used for the test animals. This has been a point of considerable controversy.

Experiments should be conducted over as much as possible of the lifetime of the experimental animal. The highest dose should be the maximum that is tolerated without shortening the lifespan through causes other than cancer. Every animal, whether it dies during the exposure period or is sacrificed at the end of the experiment, should be examined grossly and microscopically, and all toxic effects (not only cancer) should be noted.

Risk constitutes but half the essential comparison that should be made in the assessments of human hazard; the other half is benefit to the exposed population of the agent whose hazard has been identified. Decisions cannot involve merely the risk. But the acceptability of risk should depend on the specific benefits derived, the nature of the population exposed, and the availability of practical alternatives.

It is not possible to guarantee a risk-free society; nor is a risk-free society necessarily the most desirable society. It is often necessary to accept the risks of chemicals—such as drugs and pesticides—when the benefits warrant their use. Risks imposed on persons who gain no benefits are generally not acceptable. Personal choice and personal values enter into the risk-benefit comparison. For major benefits—for example, in the treatment of otherwise incurable or incapacitating diseases—much higher risks are allowable than otherwise. An important principle in risk-benefit assessment is that each person must be allowed the widest possible choice, supported by full information on risks, as well as benefits, so that intelligent choices may be made.

The benefit portion of the equation should be well defined by knowledgeable experts and based on data at least as good as the risk data. It is important, therefore, that the benefit-risk comparisons be established with the active cooperation of those who are qualified to assess the usefulness of a substance and the consequences to those in need of it, as well as to the population at large.

Finally, mankind is already exposed to many carcinogens whose presence in the environment cannot easily be controlled. In view of the nature of cancer, the long latent period of its development, and the irreversibility of chemical carcinogenesis, it would be highly improper to expose the general population to an increased risk if the benefits were small or questionable, or were restricted to limited segments of the population.

ESTIMATION OF RISK

Chronic low-dose-rate toxicity was assessed quantitatively by different procedures, the method chosen depending on the character of the experimental evidence and whether the substance in question was judged to be carcinogenic or not.

Assessments of the toxicity of noncarcinogenic substances are described in the sections on Inorganic Solutes and Organic Solutes. These are expressed as estimates of maximal "no-observed-adverse-effect" concentrations in water, and are based on the assumption that, for these noncarcinogenic materials, there are threshold doses below which no adverse effects on health are likely to occur.

Risks of exposure to radionuclides and carcinogenic organic compounds were estimated by methods that involve an assumption that there are no thresholds in the dose-response relationships. In the case of radionuclides, the estimates were based, in large measure, on the report of the Advisory Committee on the Biological Effects of Ionizing Radiation (National Academy of Sciences-National Research Council, 1972); the method used for organic compounds is described below.

In the case of organic compounds that were identified as carcinogens, the risk to man was expressed as the probability that cancer would be produced by continued daily ingestion, over a 70 y lifetime, of 1 liter of water containing a standard quantity (1 μg/liter) of the substance in question. Estimates expressed in this form may then be used to calculate risk due to the concentrations actually found in drinking water.

To make such estimates from the results of animal feeding studies two steps are necessary. The first involves conversion of the standard human dose to the physiologically equivalent dose in the animal, and this was performed on the basis of relative surface area. The second step requires use of a risk model relating dose to effect. The model used for this purpose is

$$P(d) = 1 - e - (\lambda_0 + \lambda_1 d + \lambda_2 d^2 + \cdots \lambda_k d^k)$$

where P(d) is the lifetime probability that dose d(total daily intake) will produce cancer,
K = the number of events in the carcinogenic process
and λ_0, λ_1, λ_2—etc., are nonnegative parameters. At low doses, the higher order terms in d^2, d^3, etc. may be neglected and

$$P(d) \simeq 1 - e - (\lambda_0 + \lambda_1 d) \simeq \lambda_0 + \lambda_1 d$$

λ_0 representing the background rate. When two or more sets of results of lifetime animal feeding studies were available, experimental values of P(d), the fraction of test animals developing cancer, and d, the total daily dose, were fitted to the equation to determine how many of the terms λ_0, $\lambda_1 d$, $\lambda_2 d^2$, etc. were necessary to give the best fit. Corresponding values of λ_0, λ_1, or λ_0, λ_1 and λ_2, etc. were used to calculate P(d) for the low dose of interest, namely the animal dose that was physiologically equivalent to the standard dose for man. If the animal experiments involved only one dose level, the $\lambda_1 d$ term, alone, was used in the calculation. Upper confidence limits on the estimated low-dose risk were also calculated by use of maximum-likelihood theory, and these values were tabulated.

Since the animal data were obtained from lifetime feeding studies, the risk estimates calculated from them for the low doses that were estimated to be physiologically equivalent to the human dose, were taken to represent the lifetime risks for man. The background rate, obtained from the cancer incidence in the control groups of experimental animals and represented by the parameter λ_0, was excluded from the tabulated values of P(d), which therefore represent the incremental risks due to ingestion of the compounds in water.

RECOMMENDATIONS FOR RESEARCH

A research program should include the following:

1. Studies of the physiological and biochemical mechanisms by which the toxic substances in water produce their effects.

2. Development of rapid, inexpensive, and precise tests to identify substances that may produce important toxic effects at low doses and dose rates.

3. Epidemiological studies of chronic disease.

4. Research on statistical methods and analytical models for describing and estimating the effects of long exposure to low doses of toxic substances. Studies should not be limited to carcinogenesis and should consider, also, differences between species, and particularly sensitive subgroups in the population.

MICROBIOLOGY OF DRINKING WATER

Outbreaks of waterborne disease are reported to the National Center for Disease Control (CDC) of the United States Public

Health Service by state health departments. In addition, EPA obtains information about outbreaks from state water supply agencies. Data on waterborne outbreaks have limitations and must be interpreted with caution. They represent only a small part of a larger public health problem. The number and kind of reported outbreaks may depend upon the interest or capabilities of a particular state health department or individual. They do not provide the true number of outbreaks, cases or causes of disease associated with drinking water.

No law or regulation requires state authorities to report all cases of gastroenteritis to CDC, and, in fact, many small outbreaks are not reported to state departments of health. Moreover, etiologic agents are seldom identified, even in the cases that are reported. There are reasons to believe that most outbreaks of waterborne disease are of microbiological origin. Yet the accuracy of epidemiological studies is limited by underreporting and diagnostic uncertainties.

The microbiological contaminants selected for consideration are those for which there is epidemiological or clinical evidence of transmission by drinking water. These include a variety of bacteria, viruses, and protozoa. Methods of detecting these contaminants in drinking water are reviewed, together with the determination of permissible levels. Because current drinking water standards place major emphasis on detection of microbiological contaminants, considerable attention is devoted to the validity and health significance of microbiological standards.

Effective water treatment systems in the United States have had a major impact on the reduction of waterborne infectious diseases during this century. However, waterborne disease outbreaks continue to occur. In 1975, 24 outbreaks involving 10,879 cases were reported to the CDC, but no deaths. Acute gastrointestinal illness accounted for about 90 percent of the cases.

In 1971–1974, deficiencies in treatment, such as inadequate or interrupted chlorination, and contamination of ground water, were responsible for a majority (65 percent) of the waterborne disease outbreaks. In 1975 treatment deficiencies were responsible for most outbreaks. However, deficiencies in the distribution systems were responsible for most cases.

Control of waterborne epidemics depends largely upon the control of infectious enteric diseases. Much of the success in this regard can be attributed directly to the use of chlorine as a disinfectant. The use of chlorine in water treatment may result in the formation of compounds that are known carcinogens for animals and suspected carcinogens for humans, but the benefits gained are very great.

Several substitutes for chlorine have been suggested (e.g., ozone, chlorine dioxide, bromine and iodine) but much more research is required before any of them can be recommended as a sole substitute for chlorine in water treatment. Questions concerning disinfection effectiveness, toxicity of by-products, and residual in the distribution system must be answered for proposed substitutes as well as for chlorine. It may be possible to reduce the concentrations of undesirable organic by-products of chlorination, without compromising disinfection, by changing the sequence or rate of chlorine addition in relation to other steps in water treatment. Use of other oxidizing agents before chlorination may also help to modify organic matter before significant amounts of chlorinated derivatives can be formed.

BACTERIA

Bacteriological testing and observance of bacteriological standards are adjuncts to, not substitutes for, good-quality raw water, proper water treatment, and integrity of the distribution system. Application of the present coliform standards appears adequate to protect public health when raw water is obtained from a protected source, is appropriately treated, and is distributed in a contamination-free system.

Current coliform standards are not satisfactory for water reclaimed directly from wastewater. Meeting current coliform standards for water reclaimed directly from waste water, or for water containing several percent of fresh sewage effluent, is insufficient to protect public health. For such raw water supplies, new microbiological standards should be developed and applied as supplementary to coliform standards.

The standard plate count is not a substitute for total coliform measurements of the sanitary quality of potable water. It is, however, a valuable procedure for assessing the bacterial quality of drinking water. Ideally, standard plate counts (SPC) should be performed on samples taken throughout the systems. The SPC has major health significance for surface-water systems that do not use sedimentation-fluocculation-filtration and chlorination, and for those ground-water systems and do not include chlorination.

A research program is needed to increase the value of the relatively simple bacteriological tests in controlling the sanitary quality of drinking water. The program should include:

1. Epidemiological studies of water quality and health, with application of more sensitive methods for detecting pathogens in drinking water and better reporting of outbreaks of waterborne disease.

2. Development of membrane-filtration methods to allow testing of larger samples and to reduce interference by overgrowth and disinfectants.

3. Improvement of procedures for making total-plate-counts and study of the utility of such tests for assessing the health hazards of drinking water.

4. Research on more rapid and sensitive methods for detecting pathogens and the use of such methods for monitoring the quality of water.

VIRUSES

The bacteriological monitoring methods currently prescribed (coliform count, standard plate count) ar the best biological indicators now available for routine use in determining the probable levels of virus in drinking water. The strictest current standards of water treatment, diligently applied, can provide a high degree of assurance that viruses injurious to human health are not likely to be present in finished drinking water.

Because knowledge of the scale of potential viral contamination is scanty, and because there is no rigorous basis for establishing a harmless level of viral concentration in water, research on the problems of viral contamination should be strongly supported. In particular, the following subjects deserve special attention:

1. Methods for testing drinking water for viral contamination.

2. Methods for recovery, isolation, and enumeration of viruses (especially hepatitis A).

3. Specific etiology of viral gastroenteritis.

4. Methods for evaluating and improving effectiveness of present water treatment to remove or inactivate viruses.

5. Determination of the amounts of enteric viruses that must be ingested to produce infection and disease.

PARASITES

The most important waterborne parasitic diseases in the United States are amoebiasis and giardiasis. Known outbreaks of these diseases have resulted from sewage contamination in distribution systems, and from inadequately treated surface waters.

The cysts of both of these parasites are more resistant to chlorine than are bacteria, but flocculation and filtration can remove them. Nevertheless, knowledge of the vulnerability of these organisms to disinfection is incomplete, and, in particular, the conditions necessary for destruction of giardia cysts require further study. The same considerations apply to a few other parasitic protozoa that, although rare, have been identified in public water systems.

Metazoan parasites (helminths, nematodes) that can be present in raw water will be controlled in public water supplies by well-regulated flocculation, filtration, and disinfection.

TESTING

A deficiency of customary biological methods for evaluating the bacteriological quality of water is that results from tests are not known until after the water sampled has already entered the distribution system, and been used. Sudden invasions of contamination are unlikely to be detected promptly enough to prevent exposure, and may overwhelm the corrective treatments. Therefore, control of microbiological quality can be more readily achieved if the raw water supply is of high and relatively invariant quality.

Nevertheless, it is essential that present methods of microbiological testing be continued to validate the effectiveness of disinfection and for detecting defects within the system.

SOLID PARTICLES IN SUSPENSION

Materials suspended in drinking water include inorganic and organic solids as finely divided particles of sizes ranging from colloidal dimensions to more than 100 micrometers. Such particles may also have other substances and micro-organisms attached to them.

Small particles of some materials, such as the asbestos minerals, may have the potential to affect human health directly when they are ingested, and there is widespread concern over the biological effects of such substances.

Many kinds of particles, though apparently harmless in themselves, may indirectly affect the quality of water by acting as vehicles for concentration, transport, and release of other pollutants.

Water treatment can often be effective in removing most of the suspended particles but conventional methods of detecting the presence of particulate material by measurement of turbidity have serious deficiencies.

DIRECT EFFECTS ON HEALTH

Particles of asbestos and other fibrous minerals occur in raw water, usually in a range of sizes from fractions of a micrometer to a few micrometers. Generally there are fewer than 10 million fibers per liter, but waters are found with from less than 10,000 to more than 100 million fibers per liter. Some of the highest counts have been found near some cities. Fibers in drinking water are typically less than 1 micrometer long and fibers longer than 2 micrometers are uncommon. Identification and counting of fibers is difficult and time-consuming, usually requiring the transmission electron microscope. The reported counts are highly variable, often differing from one count to the next by a factor of 10 or more.

Epidemiological studies of workers exposed to asbestos by inhalation have shown an increase in death rates from gastrointestinal cancer. With respiratory exposure it is likely that more fibers are swallowed than remain in the lungs. The workers studied were exposed to asbestos with a large range of fiber lengths. It is not clear whether fiber length

is pertinent to the development of cancer in the digestive tract in humans.

Epidemiological studies of cancer death rates in Duluth, Minnesota, where the water supply has been contaminated with mineral fiber, have so far not revealed any increase of gastrointestinal cancer with time, in comparison with death rates in other areas. Contamination of the Duluth drinking water began less than twenty years ago however, and since many cancers have long latency periods, these negative epidemiological findings do not exclude the possibility that an increase may appear within the next five to fifteen years.

Animal deposition model studies have shown that fiber length and diameter affect the carcinogenic response seen, the long thin fibers appearing to be the active ones. However, the relevance of these experimental models to the human experience is not clear. While some animal studies have shown penetration of the gastrointestinal epithelium, others have not.

It is not known whether other inorganic particulates that occur in water produce any direct effects on human health.

INDIRECT EFFECTS ON HEALTH

The concentration of inorganic, organic, and biological pollutants is usually much higher in the suspended solids and sediments of streams and lakes than in water. Clay, organic, and chiefly responsible for such concentrations. Clay and organic particulates have large surface areas and strongly adsorb ions, polar and nonpolar molecules, and biological agents. Occurrence of these materials in water is a consequence of natural events, as well as human activity, and is common in many waters that people drink. Although many of the clay or natural organic particulates, in themselves, may not have deleterious effects when ingested by humans, they may exert important health effects through adsorption, transport, and release of inorganic and organic toxicants, bacteria, and viruses. The clay or organic complex with a pollutant may be mobilized by erosion from the land, or complexes may form when eroded particulate matter enters a stream containing pollutants. The atmosphere is also an important pathway. In the adsorbed state, organic and inorganic toxicants may be less active; however, the possibility exists that the toxicants may be released from the particulate matter in the alimentary tract and then exert toxic effects. It is not clear how complexes of particulate matter with viruses and bacteria behave in the gut. It is known, however, that some enzymes retain their activity when adsorbed on clay, and that viral-clay particulates are infectious in tissue culture and in animal hosts.

TURBIDITY AS AN INDICATOR

A high turbidity measurement is an indication that a water may produce an adverse health effect; however, a low turbidity measurement does not guarantee that a water is potable. Turbidity measurements do not indicate the type, number, or mass of particles in a water supply. Where particulates in water are suspected of being harmful, the particulate content should be identified and counted by more specific techniques. Such techniques may include biological, organic, inorganic, and fibrous-particulate surveys.

Turbidity measurements are valuable for process control in water-treatment plants. However, the results obtained with present instruments, procedures, and units of measurement are not well correlated with particle concentrations and size distributions. The test itself must be standardized and refined to facilitate its use for this and other purposes.

CONCLUSION AND RECOMMENDATIONS

Certain mineral fibers found in water are suspected of being harmful upon ingestion. The available data with respect to asbestos orally ingested through drinking water do not suggest an immediate hazard to public health. They do suggest that additional research, both experimental (using animals) and epidemiological, is required to determine the degree of hazard. Until new results become available, contamination of drinking water by mineral fibers should be kept to a minimum through the use of effective coagulation and filtration processes and other appropriate measures.

Because particulates are vehicles for concentration, transport, and release of pollutants, they may have indirect effects on health. Coagulation and filtration are effective methods of reducing particulate concentrations. Measurement of particulate content by turbidimetry is imprecise and cannot be relied upon as a sole indicator of the safety of an uncharacterized drinking-water source.

RECOMMENDATIONS FOR FUTURE RESEARCH

1. A survey of suspended particulate matter in raw and treated drinking-water supplies in several "typical" communities is urgently needed as background information. This must be coupled with analysis of accompanying organic and inorganic material and microorganisms, as well as characterization of the particulates with respect to size, shape, composition, and adsorbed constituents.

2. Ingestion studies should be carried out with fibers of various types and sizes distributions in validated animal model systems.

3. Epidemiological studies of time trends in death rates should be conducted in areas that have high concentrations of mineral fibers in drinking water.

4. Electron microscopy procedures for detecting and counting asbestos fibers should be scrutinized with respect to their specificity, precision and accuracy.

5. Information is required on the effects of inorganic, organic and biological toxicants adsorbed on clay and organic particulates.

6. Development of improved and standardized methods for determining particle concentrations and size distributions by optical techniques, such as light scattering and absorption, should be supported.

INORGANIC SOLUTES

The Interim Primary Drinking Water Regulations list maximum allowable concentrations for six metallic elements—barium, cadmium, chromium, lead, mercury, and silver. Ten additional metals were reviewed in this study—beryllium, cobalt, copper, magnesium, manganese, molybdenum, nickel, tin, vanadium, and zinc. Sodium, which is also a metal, was considered separately, because the problems its poses are quite distinct from those associated with the other metallic substances.

Eight of these metals are known to be essential to human nutrition: chromium, cobalt, copper, magnesium, manganese, molybdenum, tin and zinc. Nickel and vanadium probably are essential also, and it is possible that barium can be beneficial under certain conditions. The metals, beryllium, cadmium, lead, mercury and silver are believed not to be essential to humans.

Elements that are beneficial in small quantities often exhibit toxic properties when ingested in excessive amounts or concentrations. In assessment of the adverse health effects of such materials it is important not to overlook deficiency problems that might be encountered if the substances were to be completely eliminated from water supplies.

Trace metals, usually in the form of ions, occur in water both as a result of natural processes and as a consequence of man's activities. Ground waters, because of long contact with rocks and mineralized soils, usually contain greater concentrations of trace metals than surface waters. There is considerable temporal and spatial variation in concentrations of trace metals in surface waters. Generally, the trace metal concentrations of rivers tend to increase from source to mouth, and to vary inversely with discharge.

Of the 16 metals studied, the relative contribution of man's activities to the concentrations found in water supplies can be rated roughly as follows: Very great—cadmium, chromium, copper, mercury, lead and zinc; high—silver, barium, molybdenum, tin; molerate—beryllium, cobalt, maganese, nickel and vanadium; low—magnesium.

Other important sources of trace metals in drinking water are chemicals used in water-treatment processes and pickup of metallic ions during storage and distribution. Although a large fraction of the United States population continues to receive water from ground sources or from impounded upland sources without treatment other than disinfection, most large surface supplies are subjected to treatment that includes coagulation, sedimentation, filtration, and disinfection. Should trace metals occur in the raw water supply, these normal water-treatment processes have either no effect or an uncertain one on the usual low-level concentrations of these metals. Moreover, probable trace metal impurities in the technical-grade chemicals used to treat water may introduce additional amounts.

A wide variety of materials including several metals, alloys, cements, plastics, and organic compounds are used in the pumps, pipes fittings, and reservoirs of distribution and plumbing systems. Reactions, particularly of soft, low-pH waters, with materials of distribution system often have produced much greater concentrations of iron, copper, zinc, lead and cadium at the tap than those at the treatment plant.

Adverse health effects associated with trace metals depend upon the total intake from all sources—food, air and water. As a general rule concentrations of trace metals in foodstuffs greatly exceed those found in drinking waters. Because the diet of most of the United States population is increasingly varied and comes from diverse geographical sources as a result of modern food-distribution practices that counterbalance local excesses or deficiencies, the dietary intake of trace metals exhibits relatively small variation throughout the United States. This factor is helpful in evaluation of maximum no-observed-adverse-health-effect concentrations for drinking water.

Airborne exposure to trace metals other than lead is largely occupational, occurring through the inhalation of industrial dusts or fumes. At present there is more general exposure to lead from motor-exhaust fumes although evidence for acute and chronic health effects is derived from occupational exposures. Because the data relate primarily to healthy adults, caution must be observed in extrapolating these data to the general public.

All the trace metals studied are known to exhibit toxic effects at some level of intake. Many of these effects are observed, however, only at concentrations greater than the maxima that have been found in drinking water. To include such materials in primary drinking-water standards, with the accompanying requirement for mandatory surveillance, does not confer any health benefit. Augmenta-

tion of the natural concentrations of these trace elements to values of concern can be avoided most readily by preventing discharge of the contaminants into water sources.

In addition to the trace metals mentioned above, the effects on health of several other inorganic constituents of drinking water were also studied. These include sodium, arsenic, selenium, fluoride, nitrate and sulfate. The relationship between water hardness and health was also considered. The findings on these topics are summarized individually below.

Barium. It is rare to find barium in drinking water at a concentration in excess of 1 mg/liter because of the low solubility of barium sulfate. Natural and treated waters usually contain sufficient sulfate so that more than 1–1.5 mg/liter of barium cannot be maintained in solution.

Acid-soluble barium salts are very toxic, whereas insoluble compounds are benign. There has been no determination of the chronic effects of low levels of barium ingested over a long period of time.

The Interim Primary Standard of 1 mg/liter for barium has been based on extrapolation from effects of industrial exposure to dusts of soluble barium salts. Insufficient data are available to estimate maximum no-observed-adverse-health effect concentrations on the basis of water intake. The limit of 4 mg/liter of the U.S.S.R. is based on organoleptic factors. International and European Standards of the World Health Organization (WHO) do not list barium.

It is recommended that animal studies involving long-term low-level ingestion of barium salts in water be carried out to determine possible health effects.

Beryllium. Because the oxide and hydroxide are relatively insoluble at the usual range of pH, beryllium is unlikely to occur in drinking water at more than trace concentrations. The sulfate and chloride are very soluble, but they hydrolyze quickly to the insoluble hydroxide.

Beryllium produces acute or chronic toxicity in animals when ingested continuously as beryllium sulfate in food in amounts greater than 10–20 mg/kg/day, or in water at concentrations greater than 5 mg/liter. Soluble beryllium has been shown to be transported in the bloodstream to bone, and to be able to induce bone cancer in animals, but the data are insufficient to allow estimation of risk.

Prolonged inhalation of dusts containing beryllium is known to produce pulmonary sarcoidosis. However, increased incidence of lung cancer has not been found among workers exposed to dusts containing beryllium.

No maximal allowable concentration for beryllium has been listed in the Interim Primary Drinking Water Regulations, nor has the WHO recommended a maximum limit. The U.S.S.R., however, has set a limit of 0.2 μg/liter. Until now the maximum concentration of beryllium found in U.S. surface waters has been 1.2 μg/liter and in finished U.S. drinking waters has been 0.17 μg/liter. Only 1.7 percent of drinking water supplies examined have been found to contain beryllium.

Additional studies of the frequency of occurrence and concentrations of beryllium in natural waters are needed to determine the extent to which it presents a hazard to health.

Cadmium. Cadmium is not known to be an essential or beneficial element. It has been found in 2–3 percent of U.S. surface waters, generally in concentrations not exceeding a few micrograms per liter because solubilities of cadmium carbonate and hydroxide are low at pH greater than 6. Only 0.1 percent of the supplies in the Community Water Supply Survey showed cadmium in excess of 10 μg/liter. In addition to its geological sources, cadmium enters water from the discharge of plating wastes and by corrosion of plumbing.

Food is the primary source of cadmium intake. Total daily intake from air, water, food and tobacco ranges from 40 μg/day for the rural nonsmoker on a low cadmium diet to 190 μg/day for the urban smoker on a high cadmium diet. Drinking water contributes only a small fraction (<5 percent) to this total intake.

Chronic ingestion of cadmium at levels greater than 100 μg/day, in combination with several other necessary predisposing factors, was found to be responsible for the onset of "Itai-Itai" disease in Japan. Dietary intake of amounts in excess of a milligram per day is needed for appearance of acute toxicity. Major toxic effects are on the kidney; data indicate that the toxicity of cadmium is related to the zinc:cadmium ratio within the organs. Both zinc and calcium may protect against cadmium toxicity. Persons deficient in these elements, and especially lactose-intolerant persons, who are also likely to be calcium-deficient, may constitute a high-risk group relative to cadmium. Some animal studies have shown carcinogenic and teratogenic effects, but dose-response relationships are unknown. Cadmium has also been implicated as a factor in hypertension.

Insufficient data are available for establishment of a maximum no-observed-adverse-health-effect value. It may be noted, however, that consumption of two liters/day of water containing 10 μg/liter of cadmium would contribute only about 20 percent of the normal total daily adult intake. Both the WHO and the U.S.S.R. have set the maximum allowable limit for cadmium at 10 μg/liter.

Chromium. Microgram amounts of chromium, derived primarily from food, are essential for maintenance of normal glucose metabolism. But chromium (VI) is known to be toxic, principally on the basis of information from respiratory occupational exposures. Increase risk of lung cancer among those occupationally exposed to chromium (VI) has been established.

Although inhaled hexavalent chromium may cause cancer of the respiratory tract, a working group of the International Agency for Research on Cancer concluded "there is no evidence that nonoccupational exposure to chromium constitutes a cancer hazard."

Concentrations of chromium found in natural waters are limited by the low solubility of chromium (III) oxides. A study of more than 1,500 surface waters showed a maximum chromium content of 0.11 mg/liter, with a mean of 0.01 mg/liter.

Little information is available about the average total daily intake of chromium in the United States, although it appears to be in the range of 60–280 μg/day. It has been suggested that diets containing mostly processed foods may be chromium-deficient. Tissue chromium in U.S. adults has been shown to decline with age.

In addition to the beneficial effect of chromium on glucose metabolism, some animal studies indicate that chromium deficiency may induce atherosclerosis.

Toxicity of chromium depends on the valence. No toxic effects were observed in rats when drinking water contained 25 mg/liter of trivalent chromium for a year or 5 μg/liter for life. Acutely toxic doses of trivalent chromium fall in the range of grams per kilogram of body weight. Hexavalent chromium was also tolerated at the 25 mg/liter level for a year by rats. Dogs showed no effects with 11 mg/liter over a 4-year period. Higher doses are toxic, however, producing erosion of the gastrointestinal tract and kidney lesions.

The maximum limit of the Interim Primary Drinking Water Regulations, 0.05 mg/liter, is only one-hundredth of the maximum no-observed-adverse-health effect concentration. The European Standards of the WHO and Japanese Standards give the same limit as acceptable, but set it in terms of hexavalent chromium only. The U.S.S.R. has limits of 0.1 mg/liter chromium (VI) and 0.5 mg/liter total chromium, based on organoleptic factors.

More information is needed on the carcinogenic potential of ingested chromium (VI) and chromium (III). If it becomes clear that highly toxic or carcinogenic effects occur only with chromium (VI), and a suitably sensitive analytical technique is available, then the standard might be set for chromium (VI) alone. In view of the trend in the United States toward dietary chromium deficiency, and the suggestion that chromium protects against atherosclerosis, it seems advisable to determine whether concentrations greater than that prescribed by the current drinking-water regulations are without adverse health effects, as some animal experiments suggest.

Cobalt. Cobalt is an essential element as a component of vitamin B_{12}. Excessive intake of cobalt may be toxic, however, as shown by the association of congestive heart failure with the consumption of beer containing about 1.5 mg/liter of cobalt.

Cobalt has been observed in natural waters only in trace amounts. Most waters contain no detectable cobalt, and values greater than 10 μg/liter are rare. The maximum concentration recorded in several extensive studies was 99 μg/liter.

The major source of cobalt is food; concentration in green leafy vegetables may be as greater as 0.5 mg/kg dry weight. Normally, less than 1 percent of total intake of cobalt is derived from aqueous sources.

Acute toxic effects in animals have been observed only at daily doses greater than several mg/kg of body weight. Chronic cobalt toxicity has been observed in children taking cobalt preparations to correct anemia at daily doses of 1–6 mg/kg body weight.

The Interim Primary Drinking Water Regulations do not list cobalt, nor has the WHO recommended a limit in its International or European standards. The U.S.S.R. has set a limit of 1 percent mg/liter.

Because the maximum no-observed-adverse-health-effect concentration is more than an order of magnitude greater than that found in any natural water or drinking water supply, there appears to be no reason at present to regulate the concentration of cobalt in drinking water.

Copper. Copper is an essential element for both plants and animals; it is a component of several enzymes that perform important biological functions.

Copper is a minor constituent of natural waters. In a survey of 1,600 surface waters of the United States, the concentrations were 1–280 μg/liter. Corrosion of copper piping may increase concentrations in drinking waters to several mg/liter. Copper may also be released into water in industrial discharges, and has been used for algal control in reservoirs at a few tenths milligram/liter.

Average total intake of copper is about 2.5 mg/day, so that when water contains more than 1 mg/liter of copper, the intake from water may equal or exceed that from food.

The general health hazard from copper intake at a few milligrams/liter appears to be small, but a few people are adversely affected by ingestion of even trace amounts of copper. This disorder of copper metabolism, called Wilson's disease, can be arrested by the use of chelating agents. Individuals with deficiency of glucose-6-phosphate dehydrogenase may be sensitive to copper.

The USPHS Drinking Water Standards (1962) recommended a limit for copper of 1 mg/liter based on organoleptic rather than health effects. Because no general adverse

health effects have been observed at the organoleptic limit and because the few individuals with metabolic deficiency are at the mercy of total copper intake rather than copper in water, there is no hygienic reason to impose a limit lower than the presently accepted secondary standard.

Lead. No beneficial effects of lead on human or animal development have yet been found. Although acute lead poisoning is rare, chronic lead toxicity is severe and occurs even with low daily intake (<1 mg) because of its accumulation in bone and tissue.

The natural lead content of surface waters is generally small. In a survey of nearly 1,600 raw surface waters 20 percent were found to contain detectable concentrations of lead and these had a mean value of 0.023 mg/liter. The lead concentration in municipal supplies at the tap may be much greater, however, for soft, low-pH (aggressive) waters dissolve lead from service connections, lead-lined household piping or soldered joints. Lead concentrations in excess of the interim level of 0.05 mg/liter were found in 1.4 percent of the water systems examined in the Community Water Supply Survey. The maximum value was 0.64 mg/liter.

The mean concentration of lead in U.S. drinking waters has been estimated to be 0.013 mg/liter. Consumption of .2 liters/day per capita gives a mean daily intake of 26 μg.

Lead intake from food varies greatly; mean daily values are estimated to be 100–300 μg per capita for adults. Average intake in water is considerably less than that from food, but when the concentration in water is close to or exceeds the interim level of 0.05 mg/liter, intake in water approaches that from food.

Absorption of lead from dietary sources, either food or water, is estimated to be about 10 percent for adults. Daily lead absorption from food is, then, 10–30 μg, while absorption from water ranges from an average of 3–10 μg or more, when water containing 0.05 mg/liter or greater is ingested at 2 liters/day.

The daily intake from air also ranges widely, and is greatest among city dwellers. For a daily inspiration volume of 20 m^3 for adults and a lead concentration of 3 $\mu g/m^3$ in urban air, the per capita daily intake is 60 μg. Absorption from air is about 40 percent, however, so that the daily quantity absorbed is 24 μg, a value comparable with the dietary absorption.

The sum of the estimated absorptions from the various routes, 50–60 μg/day, is already at the maximum no-observed-adverse-health-effect value of 50–60 μg/day.

Children, and especially inner-city urban children, are a special risk group with regard to lead toxicity. A primary reason is that absorption of lead from food and water is 40–50 percent for 2–3 year old children, rather than the 5–10 percent characteristic of adults. Also, water intake per kilogram of body weight is considerably greater for young children than for adults. Moreover, lead concentrations in urban air increase with proximity to the ground, so that urban children tend to have increased intake from this source. Young children also have the added risk of ingestion of flaking lead-based paints especially in depressed, older, urban areas.

Dietary lead intake for a 2-year old child (12 kg) has been estimated to be 100 μg/day (8.3 μg/kg/day); with water at the present 0.05 mg/liter limit and a consumption of 1.4 liter/day, and with air intake about 18 μg/day, the estimated total intake for a 2-year old would be close to 190 μg/day, not including other possible sources.

Major chronic adverse effects of lead are produced in the hematopoietic system, central and peripheral nervous systems, and kidneys. Disturbance in heme synthesis is considered to be the most sensitive effect. There is a detectable increase in red-cell protoporphyrin in women and children with blood lead concentrations greater than about 25–30 μg/dl (micrograms per deciliter). For men occupationally exposed, the maximum no-observed-adverse-health effect level appears to be somewhat greater at 50–60 μg/dl.

Results of studies in the Boston area indicate that increased blood levels of lead occur in children when the water supply contains 0.05–0.1 mg/liter of lead. Thus, the interim limit of 0.05 mg/liter may not provide a margin to safeguard the high-risk population in urban areas. The WHO recommendation of 5 μg of lead per kg/day as a safe total daily intake cannot be met for a 12 kg child when the water supply contains as much as 0.05 mg/liter. It is concluded that the no-observed-adverse-health-effect level cannot be set with assurance at any value greater than 0.025 mg/liter.

Manganese. Manganese resembles iron in its chemical behavior and occurrence in natural waters, but is found less frequently and usually at lower concentrations than iron. Manganese, like iron, is an essential trace nutrient for plants and animals. It is not known whether human manganese deficiency occurs in the United States. The solubility of the several oxidation states of manganese (II, III, and IV) depends upon pH, dissolved oxygen, and the presence of complexing agents. Occasionally, deep lakes or impounding reservoirs that contain organic sediments under anerobic reducing conditions can distribute several mg/liter of Mn^{+2} throughout the water body during "turnover" mixing. Normally, however, the concentration of manganese in natural surface waters is less than 20 μg/liter.

Manganese can be absorbed by inhalation, ingestion, and through the skin; the consequences of this have been recently reviewed in depth by the National Academy of Sciences. It has been known that the occupational inhalation of manganese dusts results in a disease of the central nervous system resembling Parkinsonism, and a form of pneumonia.

Ingestion of manganese in moderate excess of the normal dietary level of 3–7 mg/day is not considered harmful. A reported outbreak of manganism in Japan was attributed to drinking well water containing about 14 mg/liter of manganese.

The maximum concentration of manganese found in the 1975 Survey of Interstate Water Supply Systems was 0.4 mg/liter except for samples from two Alaskan airports which showed 1 and 1.1 mg/liter. A total of 669 supplies were examined. Similarly, the maximum concentration found in the 1969 Community Water Supply Survey was 1.3 mg/liter from 969 supplies. Both these maximum concentrations are an order of magnitude less than minimum concentrations at which adverse health effects are observed. Moreover, even with manganese at 0.4 mg/liter the intake of manganese from water would be only about 15 percent of the normal total dietary intake of manganese.

Because concentrations of manganese found in water supplies are much less than those at which adverse health effects have been observed and because the regulation of manganese for esthetic and economic reasons is also far more stringent than would be required for reasons of health, there seems little need to establish a maximum no-observed-adverse-health-effect value.

Magnesium. Magnesium is an essential element in human, animal, and plant nutrition. It is geologically ubiquitous and its salts are widely used industrially. The average U.S. adult ingests between 240–480 mg/day of magnesium. Magnesium intake from 3.6–4.2 mg/kg of body weight is believed to be adequate to maintain magnesium balance, which is closely regulated by normal kidneys. The median concentration of magnesium in the water of the 100 largest U.S. cities was reported at 6.26 mg/liter with a maxium of 120 mg/liter. It can be greater, especially in arid western states.

An excess of magnesium in the diet is seldom harmful, for it is generally excreted promptly in feces. High concentrations of magnesium sulfate in drinking water have a cathartic effect on new users, but a tolerance is soon acquired. Excessive magnesium in body tissues and extracellular fluids occurs only as a result of severe kidney malfunction. Magnesium deficiency in humans may occur in alcoholics, persons performing hard labor in hot climates (because magnesium is excreted in perspiration), those with certain endrocrine disturbances, and patients using potent diuretics. Such deficiencies can best be overcome by oral administration of magnesium compounds.

The National Interim Primary Drinking Water Regulations contain no limit for magnesium, nor did the 1962 USPHS Drinking Water Standards. The U.S.S.R. has set no limit, but the WHO has recommended a maximum of 150 mg/liter. In view of the fact that concentrations of magnesium in drinking water less than those that impart astringent taste pose no health problem and are more likely to be beneficial, no limitation for reasons of health appears needed.

Mercury. Mercury is a comparatively rare element. Its inorganic compounds are relatively insoluble and can exist in solution only in extremely small concentrations under natural conditions. Recent measurements show that only 4 percent of water supplies contain mercury at concentrations greater than about 1 μg/liter and only one of these exceeded the current standard of 2 μg/liter. Concentrations in these supplies range from 0.1–10 μg/liter. Industrial use of mercury has resulted in increased environmental contamination. The health effects of populations occupationally exposed to mercury and mercury compounds have long been recognized, but contamination of the general environment is of recent origin.

Inorganic mercury in bottom sediments can be transformed biochemically to injurious methylmercury or other organic mercurial compounds. The organic form readily enters the food chain with concentration factors as great as 3000 in fish.

Several investigators have estimated the blood levels of mercury at which identifiable symptoms of mercury intoxication occur. These levels may be obtained with a steady mercury intake of from 4–14 μg/kg/day. This would be 240–840 μg/day for adults and 80–280 μg/day for children.

It is estimated that the normal diet contributes about 10 μg/day of mercury. With daily intake of 10 μg from food and 4 μg from water it appears that there is considerable margin of safety. However, those individuals regularly consuming fish from contaminated areas may exceed the normal intake by a factor of three or more and thus constitute a high-risk population.

There is no indication that concentrations of mercury in drinking water or air have contributed in any significant way to methylmercury intoxication of the general population. The interim level limits the daily intake to 3–4 μg/day. Nearly all public water supplies in the United States contain less than 1 μg/liter of mercury. The WHO has set no limit and the U.S.S.R. has a maximum permissible concentration of 5 μg/liter.

Molybdenum. Soluble molybdate ions are present in trace concentrations in many surface waters, primarily as a result of discharge of industrial wastes but also as a product of natural weathering of molybdenum-bearing soils. Both suspended insoluble molybdenum disulfide and soluble molybdates are present in streams draining areas where molybdenum ore is mined and and processed, especially in Colorado and New Mexico.

Typical diets contain on the order of 100–1,000 μg/kg, whereas typical surface waters (except those draining mining areas) contain less than 100 μg/liter, with median values about 10 μg/liter. Hence, in most locations, water is a minor factor in the total molybdenum intake. However, some finished waters are reported to contain as much as 1.0 mg/liter, and so may provide as much as 2,000 μg/day of molybdenum. More information is needed about adverse health effects of molybdenum at these levels to deal properly with such supplies.

Molybdenum poisoning has rarely been observed in humans. Although it has been implicated for gout in Armenia and for a bone-crippling disease in India, more information is needed to establish cause-and-effect relationships.

Molybdenosis in livestock is a significant toxicological problem in many areas of the world. Consumption of molybdenum-rich forage by cattle and sheep causes severe diarrhea (scouring), which sometimes results in death. It can be prevented or alleviated by the administration of copper.

The U.S.S.R. has established a limit for molybdenum of 0.5 mg/liter in open waters, but the WHO has not promulgated a limit.

Nickel. Nickel may occur in water from trace concentrations of a few micrograms/liter to a maximum of 100 μg/liter. At these levels the daily intake of nickel from water ranges from less than 10 μg/day to a maximum of 200 μg/day, as compared to a normal food intake of 300–600 μg/day. Available information indicates that nickel does not pose a toxicity problem because absorption from food or water is low. The principal reason for considering nickel stems from epidemiological evidence that occupational exposure to nickel compounds through the respiratory tract increases the risk of lung cancer and nasal-cavity cancer. There is difficulty in separating the effect of nickel from the effects of simultaneous inhalation of other carcinogens including arsenic, chromium and cobalt.

Because of the generally low concentration of nickel in drinking water and its reported low oral toxicity, there is no present need to set primary health effect limits for nickel in water. WHO and the U.S.S.R. have set no standards for nickel in drinking water.

Silver. Trace amounts of silver are found in some natural waters and in a few community water supplies. It has not been detected at levels exceeding the interim standard of 50 μg/liter. Colloidal silver consumed in large doses—several hundred mg/kg of body weight can cause anemia and possibly death. The main chronic effect in man is "argyria". Argyria is a cosmetic defect once caused through medical or occupational exposure to silver preparations. Dosages of from 1–5 g of silver are sufficient to produce this syndrome.

On the assumption of 50% absorption of silver, consumption of 2 liters/day of water containing 0.005 mg/liter of silver would result in an accumulation of 1 g of silver over 55 years.

Silver ion has not been detected in water supplies in concentrations greater than half the no-observed-adverse-health-effect level.

Tin. There is some indication that tin may be a beneficial micronutrient, although it has not been conclusively demonstrated that tin is an essential trace element in human nutrition. Inorganic tin is relatively nontoxic, but organotin compounds can be toxic at high concentrations. Indeed, they are used as fungicides, insecticides, and anthelmintics.

Tin has seldom been determined in natural or municipally treated water. The few available data generally show concentrations of the order of 1–2 μg/liter. In contrast, tin is present in most natural foods, and especially in canned products, to the extent that the normal human ingestion varies from 1.0–30 mg/day which is three or more orders of magnitude higher than the probable amount in a liter of tap water.

EPA has not set a limit for tin in its National Interim Primary Drinking Water Regulations. In view of the foregoing considerations, no regulation seems necessary.

Vanadium. Vanadium is a trace metal which has been introduced into the environment in large quantities. Fresh surface waters show concentrations in the 2–300 μg/liter range, but with low frequency of detection. The data are limited on concentrations in finished drinking waters, but vanadium concentrations up to 19 μg/liter have been reported.

Occupational exposure to pentoxides and trioxides of vanadium leads to ear, nose and throat irritation and generally impaired health. The consequences of exposure to vanadium in air, water and food have been reviewed recently. There is no evidence of chronic oral toxicity.

Vanadium is considered a beneficial nutrient at μg/liter levels, and has been suggested as protective against atherosclerosis.

Zinc. Concentrations of zinc in surface water are correlated with man's activities and with urban and industrial runoff. The solubility of zinc depends upon the pH of the water. Concentrations ranging from 2–1200 μg/liter were detected in 77% of 1577 surface water samples and 3–2000 μg/liter in 380 drinking waters.

Zinc is relatively nontoxic and is an essential trace element. Recommended minimum intake levels are 15 mg/day for adults and 10 mg/day for children over one year of age. A wide margin of safety exists between normal intake from the diet and doses likely to cause oral toxicity. Concentrations of 30 mg/liter or more impart a strong astringent taste and a milky appearance to water. Some acute adverse effects have been reported from consumption of water containing zinc at 40–50 mg/liter. There are no known chronic adverse effects of low-level zinc intake in diet, but human zinc deficiency has been identified.

The proposed EPA secondary maximum contaminant level is 5 mg/liter.

Sodium. Sodium ion is an ubiquitous constituent of natural waters. It is derived geologically from the leaching of surface and underground deposits of salts such as sodium chloride, from the decomposition of sodium aluminum silicates and similar minerals, from the incorporation of evaporated ocean spray particles into rainfall and from the intrusion of sea water into fresh water aquifers. Sodium chloride used as a deicing agent on roads enters water supplies in runoff from roads and storage depots. This added sodium chloride amounting to 9 million tons in 1970, is distributed throughout the snow belt of the northern U.S. and is most heavily concentrated in metropolitan areas.

A survey of 2,100 supplies, covering approximately 50% of the population of the U.S., was carried out in 1963–1966. The concentrations of sodium ion found ranged from 0.44 to 1,900 mg/liter. About 42% of the supplies had sodium ion concentrations in excess of 20 mg/liter and nearly 5% had concentrations greater than 250 mg/liter.

Few studies of habitual sodium ion intake by healthy adults in the U.S. have been reported. Such data as have been reported are based on measurement of sodium excretion in 12- or 24-hour urine collections. Wide variations occur among individuals and in the same individual from day to day. One study reported a mean 24-hour excretion of 4,100 mg, with a range from 1,600 to 9,600 mg, in 71 working adult males in New York. Another study reported a mean sodium excretion near 2,800 mg/24 hours in 171 black women ranging in age from 35 to 44 years. Infants have been estimated to excrete 69–92 mg/kg/day.

Sodium chloride is added to many foods during processing. Additional sodium chloride is often added during cooking, and again at the table. None of this is essential, for habitual intake of sodium bears no relationship to physiological need. Healthy individuals have been shown to maintain sodium balance on an intake of less than 2,000 mg/24 hours while sweating 9 liters/day. A variety of pre-industrial societies, in widely divergent habitats (for example, tropical jungle, desert, arctic) subsist for generations on sodium intake less than 1,000 mg/day and show no evidence of sodium deprivation. Requirements for sodium in growing infants and children are estimated at less than 200 mg/day.

It thus appears that habitual intake of sodium in adults in the United States often exceeds body need by tenfold or more. Evidence that this excessive intake may have harmful consequences is summarized in the detailed report.

Specification of a "no-observed-adverse-health-effect" level in water for a substance such as sodium, for which the effect is associated with total dietary intake and for which usual food intake is already greater than a desirable level, is impossible.

Since adult fluid intake averages 1.5–3 liters/day, sodium intake from drinking water represents less than 10 percent of the habitual total intake of 3000–4000 mg so long as the sodium content of the water does not exceed 200 mg/liter. Adverse health effects may be anticipated with sodium concentrations in water greater than 20 mg/liter only for that special risk group restricted to total sodium intake of 500 mg/day, because it is not feasible to reduce intake from food below 440 mg/day. For this group, whose diets must be medically supervised, knowledge of the sodium ion concentration of the drinking water permits prescription of bottled water low in sodium when necessary.

Reduction in hypertension for a small segment of the U.S. population who are on severely restricted diets requires a total intake of sodium less than 500 mg/day. These persons need water containing less than 20 mg/liter sodium ion.

A larger proportion of the population, about 3 percent, is on sodium-restricted diets that require sodium intake of less than 2000 mg/day. The fraction that can be allocated to water varies, depending on medical judgment in individual instances. Knowledge of the sodium ion content of the water supply and maintenance of it at the lowest practicable concentration is clearly helpful in arranging diets with suitable sodium intake.

In many diets allowance is made for water to contain 100 mg/liter of sodium.

It appears that at least 40 percent of the population would benefit if total sodium ion intake were maintained at less than 2,000 mg/day: *Provided*, That sodium ion concentration in the water supply were less than 100 mg/liter, the contribution of water to the desired total intake of sodium would be 10 percent or less at a daily consumption of two liters.

Arsenic. Arsenic is not known to be essential to humans, nor are there known beneficial effects from its ingestion in any form, even though a number of arsenic compounds, principally organic, have been used medicinally for treatment of a number of diseases. Minimization of intake is, therefore, desirable.

Trace concentrations of arsenic are rather widely distributed in natural waters of the United States. Surface water surveys have indicated that 20 to 25 percent contain arsenic in excess of the detection limit of 10 μg/liter, and that concentrations as great as 1,000 μg/liter occur. Concentrations as great as 1,400 μg/liter have been reported for ground waters. Enhanced values for arsenic content have been encountered in the vicinity of smelters, and in connection with dumping or spills of arsenical pesticides.

Other sources of human intake of arsenic include residues of arsenical insecticides on fruits and vegetables, naturally occurring arsenic in food products such as shellfish, residual dietary organic arsenicals in pork and poultry, and inhalation of dusts containing arsenic from occupational or environmental contamination. The median total intake of arsenic from all sources in the United States has been estimated to be 137–330 μg/day.

The toxicity of arsenic depends greatly on chemical form, route of exposure, and the rate and duration of exposure. Arsines and trivalent inorganic arsenic (arsenite), are the most toxic forms. The lethal oral dose of sodium arsenite lies in the range of 1–25 mg/kg; arsenic trioxide is one-third to one-tenth as toxic, and pentavalent arsenic and organic arsenicals are less than one-tenth as toxic.

Chronic or sub-acute toxicity of arsenic has been observed with ingestion of a few milligrams per day for two weeks or longer. Initial symptoms are skin erythrema, edema and pigmentation, gastrointestinal and neurological disturbances. Similar symptoms have been observed in several populations that use water containing 100–1,000 μg/liter of arsenic. Other conditions attributed to excessive human intake of arsenic include neuropathy, increased heart attacks, and vascular injury leading to gangrene and "Blackfoot." Industrial exposures, by inhalation or skin contact, sufficient to cause serious effects on health, have been reported in the United States and several other countries.

Human exposure to inorganic arsenic compounds has been linked to development of cancer of the skin, respiratory system, and gastrointestinal tract. However, animal studies have not shown arsenic compounds to be carcinogenic even when administered at the maximally tolerated dosages for long periods of time. This absence of positive results from controlled animal studies makes it impossible to estimate quantitatively a risk of cancer from intake of arsenic in any form or concentration.

Arsenic compounds are fetotoxic in animals at high doses, and teratogenic at lower doses. They have also been found to be mutagenic and are associated with chromosomal aberration in man.

There is speculation that interactions between arsenic and heavy metals or between arsenic and irritating substances, such as sulfur dioxide, may be important in determining overall effects on humans exposed to mixtures of these environmental contaminants. Arsenic has been found to protect against selenium poisoning in some circumstances, but under other conditions selenium and arsenic appear to be additive in toxicity.

The maximum no-observed-adverse-effect-level for arsenic in water is less than 100 μg/liter. The current mandatory U.S. drinking water limit of 50 μg/liter provides only a meager margin of safety. Intake from 2 liters/day of water containing 20 μg/liter is slightly greater than 10 percent of the median total intake of arsenic. The present WHO limit is 50 μg/liter, as it is in the U.S.S.R.

A research program should include:

1. Improvement of analytical techniques and methodology for better adaptability to water and foods. (Definition of chemical form is required.)

2. Epidemiological and analytical studies of the distribution of the various forms of arsenic in water at low concentrations, and relationship to disease patterns.

3. Development of a suitable animal model for long-term studies of arsenic toxicity at low levels.

4. Intensive studies on the metabolism of arsenic in mammalian systems.

5. Studies on the itneraction of arsenic with other trace elements in the environment, such as Se, Cu, Zn.

Selenium. Either a deficiency or an excess of selenium can result in adverse responses. Selenium is an essential nutrient, part of the enzyme glutathione peroxidase, and may have a role in other biologically active compounds. It is a detoxifying agent for heavy metals, especially cadmium, and in some circumstances acts antagonistically to arsenic. On the other hand chronic exposure to excess selenium results in dermatjtis, central nervous system and gastrointestinal disturbances. Large doses cause acute toxicity or death.

Most natural waters contain only minute concentrations of selenium, less than 10 μg/liter, but in regions with seleniferous soils concentrations in water may reach several hundred micrograms per liter, particularly for well water. One surface water receiving irrigation drainage from seleniferous soils has been found to contain 2000 μg/liter.

Most selenium intake normally is from food. Concentrations in foodstuffs vary widely, depending on the type and the selenium content of the soil in which the crop was grown. Cereals, meats, and seafoods are likely to be major contributors, with average concentrations of a few tenths of a mg/kg. Minimum nutritional requirements for selenium have been estimated to be 1 mg/month.

Industrial exposure to selenium may occur in copper refining, in the mining and milling of lead, zinc, phosphate, or uranium, in the manufacture of glass, ceramics, electronic devices and pigments, and as a result of coal or oil combustion. Atmospheric pollution and general respiratory intake may also occur in the neighborhood of these industries.

Both inorganic and organic forms of selenium are readily absorbed from the gastrointestinal tract of animals. Selenite and selenate are distributed largely to the liver, kidneys, muscle mass, gastrointestinal tract, and blood. The principal route of excertion of selenium is in the urine, mainly as trimethyl selenonium ion.

Most indications of the health effects of selenium are derived from animal studies; the number of reports of industrial or accidental exposures to toxic levels is limited. The severity of response depends on the chemical form of selenium, hydrogen selenide being most toxic. Symptoms of selenium toxicity in animals include gastroenteritis, myocardial damage, hydrothorax, pulmonary edema, and renal and liver damage.

Sodium selenite is toxic to rats at concentrations of 6 to 9 mg/liter in drinking water; concentrations less than 1 mg/liter are without observed toxic effect.

Cited evidence for carcinogenic effects of selenium is tenuous because of poor experimental design or protocol, and has not been confirmed in properly conducted studies. Epidemiological and demographic studies tend to suggest a protective effect of selenium against certain types of cancers, as do statistical data comparing sheep on selenium-supplemented diets with those on normal diets. Tehre are no reports of mutagenicity of selenium.

Although the WHO limit on selenium, like the EPA-proposed maximum contaminant level, is 10 μg/liter and the U.S.S.R. limit is 1 μg/liter as SeO_3, most evidence indicates that there is greater overall potential for selenium deficiency than for selenium toxicity at current levels of selenium intake. The maximum no-observed-adverse-health-effect level for selenium in water is at least 100 μg/liter and apears to be as great as 500 μg/liter. A concentration of 20 μg/liter just barely provides a minimum nutritional amount of selenium with a consumption of 2 liters/day.

A research program should include:

1. Development of more rapid, accurate and reproducible analytical methods of provide qualitative and quantitative assays of chemical forms, oxidation state, and solubility of water.

2. Improved systems for monitoring selenium in the environment (water, air, food).

3. Molecular transformations of selenium compounds in mammalian systems.

4. Interactions between selenium, mercury, cadmium, arsenic, and other trace elements and heavy metals in the biosphere and in animal organisms.

5. Determination of natural and industrial emissions and cycling of selenium in the environment.

6. Effects on animal systems of long-term, low levels of selenium, alone and in combination with other trace elements.

7. Baseline data on selenium levels in humans in health and disease.

8. Effects of deficiency or excess of selenium on the development of animal tumors.

9. Studies of the variation in human nutritional requirements for selenium.

Fluoride. Fluoride is found widely in water supplies, but the concentration is usually not great enough to be undesirable. The maximum concentration found for the 969 supplies studied in the 1969 Community Water Supply Survey was 4.4 mg/liter. Most supplies that were not intentionally fluoridated had fluoride concentrations less than 0.3 mg/liter.

A more extensive survey by the Dental Health Division of the U.S. Public Health Service showed that more than 2,600 communities with a population of 8 million people have water supplies with more than 0.7 mg/liter of naturally occurring fluoride. Most of these communities are in Arizona, Colorado, Illinois, Iowa, New Mexico, Ohio, Oklahoma, South Dakota, and Texas. Of these, 524 communities representing 1 million people had supplies with fluoride concentrations greater than 2 mg/liter.

Small amounts of fluoride, on the order of 1 mg/liter, depending on the environmental temperature, in ingested water and beverages, are generally conceded to have a beneficial effect on the rate of occurrence of dental caries, particularly among children.

Two forms of chronic toxic effects are recognized generally as being caused by excess in intake of fluoride over long periods of time. These are mottling of tooth enamel or dental fluorosis, and skeletal fluorosis. In both cases, it is necessary to consider the severity since the very mild forms are considered beneficial by some. The most sensitive of these effects is the mottling of tooth

enamel, which, depending on the temperature, may occur to an objectionable degree with fluoride concentrations in drinking water of only 1.5–2 mg/liter. These observations were made a number of years ago and there have been no recent studies to determine if these levels still cause mottling. Apparently there has been little systematic investigation of the degree to which consumers of drinking water with several mg/liter of fluoride regard the resultant mottling as an adverse health effect.

Skeletal fluorosis has been observed with use of water containing more than 3 mg/liter. It now appears that some probability of objectionable dental mottling exists with and increased bone density long-term consumption of water containing fluoride in excess fo 1 mg/liter in patients with long-standing renal disease and polydipsia. Increased bone density, however, has often been regarded as a beneficial rather than an adverse effect. This therefore makes the implications of such changes unclear. Intake of fluoride for long periods in amounts greater than 20–40 mg/day may result in crippling skeletal fluorosis.

Other reported adverse health effects of intake of milligram per liter levels of fluoride in drinking water, including mongolism, cancer mortality, mutagenic or birth effects and sensitivity have either been unconfirmed or found lacking in substance. There is also no evidence that there is any difference between the effects of naturally occurring or intentionally added fluoride.

Epidemiological studies where the water is naturally high in fluoride have shown no adverse effects other than dental mottling except in rare cases. Controlled studies with fluoridation at the 1 mg/liter level have reported no instances of adverse effects. Available evidence does not suggest that fluoridation has increased or decreased cancer mortality rates.

Additional studies of mottling and skeletal fluorosis need to be done in communities with several mg/liter fluoride in their water supplies to ascertain whether the no-adverse-health effect level for fluoride is greater or less than 1 mg/liter. In addition sociological studies are needed to ascertain the extent to which dental mottling is regarded as an adverse effect.

Nitrate. All sources of combined nitrogen must be regarded as potential sources of nitrate, for there is a tendency for all nitrogenous materials in natural waters to be converted into nitrate. Major point sources of combined nitrogen in water are municipal and industrial wastewaters, refuse dumps, animal feed lots and septic tanks. Diffuse sources include runoff or leachate from manured or fertilized agricultural lands, urban drainage and biochemical nitrogen fixation. Small amounts of combined nitrogen occur in rainfall from solution of atmospheric ammonia and oxides of nitrogen.

In the Community Water Supply survey of the Bureau of Water Hygiene in 1969, the range of nitrate concentrations found was 0–127 mg/liter. Nineteen systems, about 3 percent of those examined for nitrate, had concentrations in excess of the recommended limit of 45 mg/liter.

Ordinarily, the major human intake of nitrate is from food rather than from water. The mean food intake in the United States has been estimated to be nearly 100 mg/day, most of it coming from vegetables such as spinach, lettuce, and root vegetables, which may contain several thousand mg/kg of nitrate.

Nitrate is secreted in the saliva, the mean value being about 40 mg/day, of which about 10 mg/day is reduced to nitrite and found in that form. These quantities, although internally derived, also represent inputs to the gastric system.

Two health hazards are related to the consumption of water containing large concentrations of nitrate (or nitrite): induction of methemoglobinemia, particularly in infants, and possible formation of nitrosamines, some of which may be carcinogenic.

Acute toxicity of nitrate occurs as a result of reduction to nitrite, a process that can occur under specific conditions in the stomach, as well as in the saliva. Nitrite acts in the blood to oxidize hemoglobin to methemoglobin, which does not perform as an oxygen carrier. Consequently, anoxia and death may ensue.

Health adults are reported to be able to consume large quantities of nitrate in drinking water with relatively few effects, if any. Acute nitrate toxicity is almost always seen in infants rather than adults. This increased susceptibility of infants has been attributed to high intake per unit weight, to the presence of nitrate-reducing bacteria in the upper gastrointestinal tract, to the condition of the mucosa, and to greater ease of oxidation of fetal hemoglobin.

Assessment of maximum nitrate levels in water exhibiting no adverse health effects has been based principally on a study of known cases of methemoglobinemia. No cases of methemoglobinemia were found in the original studies in which the water contained less than 10 mg/liter nitrate as nitrogen. Later, a small fraction of total cases was found in which the nitrate concentration of the drinking water was somewhat less than 10 mg/liter as nitrogen. Only one case in the United States has been associated with a public water supply regardless of nitrate content.

Studies supplementary to the previous ones, in which levels of methemoglobin in the blood of infants were related to concentrations of nitrate in the water being fed, showed elevation of methemoglobin levels in infants supplied with water containing nitrate as nitrogen only slightly in excess of 10 mg/liter.

It can be concluded that, from the viewpoint of induction of methemoglobinemia, the maximum concentration of nitrate in water exhibiting no significant adverse health effects is close to the interim standard of 10 mg/liter as nitrogen. However, there appears to be little margin of safety for some infants with the standard at this concentration.

The other health hazard proposed for nitrate in water, that it may act as a procarcinogen, is more speculative. A series of reactions is involved by which it is proposed that nitrate in water may be converted to N-nitroso compounds that may be carinogenic. The steps in the reaction sequence are:

1. Reduction of nitrate to nitrite.
2. Reaction of nitrite with secondary amines or amides in food or water to form N-nitroso compounds.
3. Carcinogenic reaction of N-nitroso compounds.

Reaction of nitrites and secondary amines or amides to form N-nitroso compounds occurs readily in acidic solution, and particularly at the normal pH of 1–5 that is characteristic of gastric contents after a meal.

However, the relation of nitrate concentrations in water supplies to the presence of nitrite in the digestive tract is much more problematic. The major source of nitrite to the stomach, at least for healthy individuals, is the saliva, normally containing 6–15 mg/liter of nitrite. Little reduction of nitrate to nitrite occurs in the human stomach unless the gastric pH is greater than 4.6. Thus the pH for formation of nitrite is quite different from that required for ready formation of N-nitroso compounds, pH 3.5 or less.

Epidemiologically, correlations have been shown between incidence of gastric cancer and concentration of nitrate in the drinking water. An unusually high incidence of stomach cancer in certain mountainous areas of Columbia is associated with high concentration of nitrate in the drinking water. The findings, however, are preliminary and only suggestive. They provide no firm evidence of a causal link between incidence of cancer and high intake of nitrate. They do indicate a need for caution in assessing lack of adverse health effects even at 10 mg/liter nitrate as nitrogen and a need for continued intensive study on the metabolism and effects of nitrate in man.

In conclusion, available evidence on the occurrence of methemoglobinemia in infants tends to confirm a value near 10 mg/liter nitrate as a nitrogen as maximum no-observed-adverse-health-effect level, but there is little margin of safety in this value. There is little scientific basis to support conclusion on the hazard of any concentration of nitrate in water with regard to carcinogenic potential.

Sulfate. No adverse health effects have been noted for concentrations of sulfate in drinking water less than about 500 mg/liter. Diarrhea is the only physiological effect observed at concentrations greater than 1,000 mg/liter.

The taste threshold for sulfate in water lies between 300 and 400 mg/liter for most persons, but some are able to detect as little as 200 mg/liter.

Water hardness and health. A large body of scientific information indicates that certain inorganic or mineral constituents of drinking water are correlated with increased morbidity and mortality rates. These constituents are not usually considered to be "contaminants" since they are often associated with the level of "hardness" of drinking water, and occur naturally or are picked up from water treatment or distribution systems. Hardness is due primarily to the presence of ions of calcium and magnesium and is expressed as the equivalent quantity of calcium carbonate ($CaCO_3$). Water containing less than 75 mg/liter $CaCO_3$ equivalent is generally considered to be soft, and above 75 mg/liter as hard.

The literature suggests that in the United States and other developed nations, the incidence of many chronic diseases, but particularly cardiovascular diseases (heart disease, hypertension, and stroke), is associated with various water characteristics related to hardness. Most of these reports indicate an inverse correlation between the incidence of cardiovascular disease and the amount of hardness. A few reports also indicate a similar inverse correlation between the hardness of water and the risk of several non-cardiovascular causes of death as well.

Several hypotheses have been proposed to account for the correlations; these mostly involve either a protective action attributed to some elements found in hard water or harmful effects attributed to certain metals often found in soft water.

The hypothetically protective agents include calcium, magnesium, vanadium, lithium, chromium, and manganese. The suspected harmful agents include cadmium, lead, copper, and zinc, all of which tend to be found in higher concentrations in soft water as a result of its relative corrosiveness. However, there is disagreement over the magnitude, or even the existence, of a "water factor" in the risk of cardiovascular disease; the identity of the specific casual factors; the mode of action; and the specific pathological effects. The wide spectrum of alleged associated effects, the lack of consistency in

theorized or reported etiologic factors, the very small quantities of the suspected elements in water in comparison with other sources, and the discrepancies between studies, raise serious questions as to whether drinking water serves as a vehicle of casual agents, is an indicator of something broader within the environment, or represents some unexplained spurious associations. Despite these uncertainties, the evidence is sufficiently compelling to treat the "hard water hypothesis" as plausible, particularly when the number of potentially preventable deaths from cardiovascular diseases is considered. In the United States, cardiovascular diseases account for more than one-half of about two million deaths that occur each year. On the assumption that water factors are casually implicated, it is estimated that optimal conditioning of drinking water could reduce this annual cardiovascular disease mortality rate in the United States by as much as 15 percent.

In view of this potential health significance, it is essential to ascertain whether water factors are casually linked to the induction of cardiovascular or other diseases and, if so, to identify the specific factors that are involved. Much more definitive information is needed in order to identify what kinds of remedial water treatment, if any, can be considered.

ORGANIC SOLUTES

The organic compounds that have been identified in drinking water make up a small fraction of the total organic matter present. About 90 percent of the volatile organic compounds have been identified and quantified, but these represent no more than 10 percent by weight of the total organic material. Only 5-10 percent of the non-volatile organic compounds, that comprise the remaining 90 percent of the total organic material, has been identified. (In this context, volatile signifies that the compound is detectable by gas chromatography.)

The compounds selected for review in this study included 74 non-pesticides of the approximately 309 volatile organic compounds so far identified in drinking water, and 55 pesticides. Some of the pesticides studied have not yet been detected in drinking water, but were included because they are or have been used in large quantities. A compound was selected for consideration if any of the following criteria applied:

1. Experimental evidence of toxicity in man or animals, including carcinogenicity, mutagenicity, teratogenicity.

2. Identified in drinking water at relatively high concentration.

3. Molecular structure closely related to that of another compound of known toxicity.

4. Pesticide in heavy use; potential contaminant of drinking water supplies.

5. Listed in the Safe Drinking Water Act or National Interim Primary Drinking Water Regulations.

Toxicological information about the compounds of interest was variable in quality and quantity and, in some instances, inadequate for a proper assessment of toxicity. In evaluating the potential effects on health of these organic compounds the principal concern was to assess their carcinogenicity. At the concentrations found in drinking water, none of the compounds would be expected to produce acute toxicity, but the effects of long continued ingestion of the carcinogens might well become a serious public health problem.

The risk associated with ingestion of compounds that were identified as carcinogenic (to man or animals, confirmed or suspected) were calculated, to the extent that data were available, by the method described in the section on Safety and Extrapolation. The results of these assessments are given in Table 1.

Chronic toxicity of the compounds that were judged not be carcinogenic was assessed by calculating, from such experimental results as were available, Acceptable Daily Intakes (ADI). These values are given in Table 2, together with estimates of maximal no-observed-adverse-health-effect concentrations in water that were derived from them. Compounds that could not be assessed for lack of experimental evidence are listed in Tables 3 and 4.

The ADI [1] represents an empirically derived value that reflects a particular combination of both knowledge and uncertainty concerning the relative safety of a chemical. When there is more confidence about data derived from animal experiments or observations on humans the uncertainty factor is smaller than when little is known about the potential toxicity of a chemical. These numbers are not meant to represent a guaranteed safety level, but rather to indicate a level at which exposure to the single chemical in question is not anticipated to produce an observable toxic response in man. The ADI values do not consider interactions (e.g. synergism, antagonism) among the many possible contaminants. Furthermore the ADI values do not represent safe levels in drinking water, because they do not take into account what fraction of the potential contaminant intake may come from water.

Suggested no-observed-adverse-health-effects concentrations in water have been calculated under two different assumptions: (1) That 20 percent of total intake of a material is from water and 80 percent from other sources, and (2) that 1 percent of total intake is from water and 99 percent from other sources (See Table 2). Similar calculations can be made for other materials discussed in this report using such data as may be available with regard to concentration of the contaminant in food or other sources.

Because the experimental data on the effects of many substances are inconsistent, "no-observed-adverse health effect" levels cannot be firmly specified for all organic contaminants. Most of the materials considered have not been studied sufficiently to firmly establish their carcinogenic potential with certainty. The risk assessments do not take into account interactions such as additive toxicity, synergism, and antagonism. What ultimately may be most important is the interaction of these compounds with each other and with other material in contributing to the total body burden resulting from multiple sources of contaminant exposure. For these reasons the ADI is intended to be used only as a guide for assessment of toxicity from chronic exposure. Furthermore, an ADI is not meant to provide a basis for the continuing discharge of a compound into the environment.

In the present limited state of our knowledge concerning structure-activity relationships for carcinogenic and other toxic effects, one cannot consistently and accurately extrapolate these properties from one compound to another. Nevertheless, in certain instances (for example, the substitution of bromine for chlorine in a halogenated methane) it is presumed that the relationship is sufficiently strong to justify the suspicion that the related compounds may be similarly toxic.

[1] The Committee considered several alternative terms, other than ADI, but concluded that the introduction of a substitute for ADI might well lead to confusion. The term "Acceptable Daily Intake" is used throughout the discussion because of its adoption by international organizations.

The potential for existing concentrations of organic pesticides and other organic contaminants in drinking water to adversely affect health, cannot be answered with certainty at this time. The key issue is whether or not certain organic chemicals found in very low concentrations can cause or increase the rate of cancer development in man. Even though several of these chemicals have demonstrated carcinogenicity in laboratory animals, the extrapolation of such results to man remains difficult for a number of reasons.

Because of bioassays that have been used to establish carcinogenicity of certain organic chemicals are conducted at doses which are hundreds to thousands of times greater than the levels at which these chemicals occur in water, the risks at these low levels must be obtained by extrapolation from higher doses. There is no hard evidence that low level oral exposure to any of these chemicals produces cancer. An argument has been made that the dose levels used to establish carcinogenicity are so high that they overwhelm normal detoxification or repair mechanisms or both, and produce cancer by some mechanism that does not operate under low dose conditions. Experimental animals subjected to such high doses could be considered a population different from those exposed to lower doses that do not produce pathological alterations and changes in pharmacokinetic parameters, or biochemistry.

Extrapolating from laboratory animals to man would be more meaningful if comparative metabolic information between the different species were available. Some species do not metabolize a parent compound to its activated form so that use of these species in toxicological bioassays is inappropriate if the compound undergoes activation in man. The converse situation also is true. Difference may also occur with respect to other parameters such as rates of biotransformation, absorption, excretion, and biological half life.

Risk assessments based on extrapolations which fail to consider species differences with respect to sensitivity, tissue susceptibility, kinetics, pathology or biotransformation pathways may be inappropriate. This kind of information is not presently available.

In light of such uncertainties, a cautious approach must be adopted when dealing with potentially harmful chemicals. Even more uncertainty exists when one considers the possibility that some of these chemicals may also be mutagenic or teratogenic. The methodologies used to establish these effects are even less applicable to man than cancer bioassays.

For many of the organic compounds identified in drinking water, virtually no toxicity data are available. Ideally, all of these agents (as well as any new ones) should be subjected to an extensive battery of toxicity tests including chronic bioassay. In practice, there is a need to determine those agents for which the generation of data is most pressing. Several criteria are important for the development of an order of priority for testing.

The main factors identified in the assignment of priorities are:

1. The relative concentrations of the compounds and the number of people likely to be exposed as well as the identity of defined subpopulations exposed,

2. The number of water systems in which they occur,

3. Positive responses to in vitro mutagenic screening systems,

4. Positive responses to in vitro carcinogen pre-screens (mammalian cell transformations),

5. Similarity of chemical structure of the test compound to those of other compounds

having defined toxic properties (i.e. structure-activity relationships) and

6. Relationship of dose from water to total body burden.

A number of assays using bacteria and yeast have shown promise in yielding high correlations between mutagenic activity and known carcinogenic activity for certain classes of materials. These may prove to be useful in establishing a first level screen for potential carcinogens.

CONCLUSIONS

Carcinogenicity. Table 1 lists the organic contaminants for which positive data on carcinogenesis exist. For these compounds, where adequate (lifetime) feeding studies were available, a statistical extrapolation of risk was performed. The method is described in the section on Safety and Extrapolation. The numbers in Table 1 are upper 95 percent confidence estimates of cancer risk to man from a lifetime of exposure to a particular compound. These estimates have been corrected for interspecific differences (that is, between the experimental animal and man on the basis of relative surface area.

Bacterial Mutagenicity. In addition to examining data from animal feeding studies for the identification of suspect carcinogens, data for mutagenesis in bacteria, or other test systems were also examined. Available data are summarized as follows: (1) Benzo-(a)pyrene, chlorodibromomethane, Captan, and Folpet have been found to be mutagenic; (2) Bromoform and vinyl chloride, weakly mutagenic; (3) Carbon tetrachloride, bromobenzene, nicotine, DDE, dieldrin, carbaryl and trifluraline, non-mutagenic.

Teratogenicity. Data on teratogenic potential exist for 24 of the compounds under study. Hexachlorophene, nicotine, the phthalate esters, 2,4-D, 2,4,5-T, and Folpet have been shown to be teratogens, while benzene, benzo(a)pyrene, carbon tetrachloride, PCB's, Captan, Carbaryl, Chlordan, DDT, Kepone, Malathion, Methylparathion, Mirex, Paraquat, and Parathion have been reported to be non-teratogenic. Nowhere is the paucity of toxicologic data more evident than in the data on teratogenesis.

Non-Carcinogenic Toxicity. For 45 compounds there were sufficient data to calculate ADI's. These are summarized in Table 2. Occasionally the ADI was calculated from partial lifetime exposure studies when no other data were available. Toxicity was measured by various responses.

The health effects of many compounds of interest could not be assessed because toxicological information about them was inadequate or unavailable. These compounds are listed in Tables 3 and 4, together with their reported occurrence in drinking water in the United States.

TABLE 1.—*Categories of known or suspected organic chemical carcinogens found in drinking water*

Compound	Highest observed concentrations in finished water (microgram per liter)	Upper 95 pct confidence estimate of lifetime cancer risk per (microgram per liter) [1]
Human carcinogen: vinyl chloride	10	5.1×10^{-7}
Suspected human carcinogens:		
Benzene	10	[4]
Benzo(a)pyrene	[2]	[4]
Animal carcinogens:		
Dieldrin	8	2.6×10^{-4}
Kepone	[3]	4.4×10^{-4}
Heptachlor	[3]	4.8×10^{-4}
Chlordane	.1	1.8×10^{-4}
DDT	[3]	1.2×10^{-4}
Lindane (γ-BHC)	.01	9.3×10^{-4}
α-BHC	[3]	6.5×10^{-4}
β-BHC	[3]	4.2×10^{-4}
PCB (Aroclor 1260)	2	3.1×10^{-4}
ETU	[3]	2.2×10^{-4}
Chloroform	366	3.7×10^{-7}
Carbontetrachloride	5	1.5×10^{-7}
PCNB	[3]	1.4×10^{-7}
Trichloroethylene	.5	1.3×10^{-7}
Diphenylhydrazine	1	[4]
Aldrin	[3]	[4]
Suspected animal carcinogens:		
Bis(2-chloroethyl)-ether	.42	1.2×10^{-4}
Endrin	.08	[4]
Heptachlor epoxide	[3]	[4]

[1] See text for details.
[2] Detected but not quantified.
[3] Not detected.
[4] Insufficient data to permit a statistical extrapolation of risk.

TABLE 2.—*Organic pesticides and other organic contaminants in drinking water, concentration, toxicity, ADI and suggested no adverse effect levels*

Compound	Maximum observed concentrations in water (microgram per liter)	Maximum dose producing no observed adverse effect (milligram per kilogram per day)	Uncertainty factor [1]	ADI [2] (milligram per kilogram per day)	Suggested no adverse effect level from water, microgram per liter assumptions [3]	
					1	2
2,4-D	0.04	12.5	1,000	0.0125	87.5	4.4
2,4,5-T		10.0	100	.1	700	35
TCDD		10^{-4}	100	10^{-6}	7×10^{-4}	3.5×10^{-4}
2,4,5-TP	[4]	.75	1,000	.00075	5.25	.26
MCPA		1.25	1,000	.00125	8.75	.44
Amiben		250	1,000	.25	1750	87.5
Dicamba		1.25	1,000	.001125	8.75	.44
Alachlor	2.9	100	1,000	.1	700	35
Butachlor	.06	10	1,000	.01	70	3.5
Propachlor		100	1,000	.1	700	35
Propanil		20	1,000	.02	140	7
Aldicarb		.1	100	.001	7	.35
Bromacil		12.5	1,000	.0125	87.5	4.4
Paraquat		8.5	1,000	.0085	59.5	2.98
Trifluralin (also for Nitralin and Benefin)	[4]	10	100	.1	700	35
Methoxychlor		10	100	.1	700	35
Toxaphen		1.25	1,000	.00125	8.75	.44
Azinphosmethyl		.125	10	.0125	87.5	4.4
Diazinon		.02	10	.002	14	.7
Phorate (also for Disulfoton)		.01	100	.0001	.7	.035
Carbaryl		8.2	100	.082	574	28.7
Ziram (and ferbam)		12.5	1,000	.0125	87.5	
Captan		50	1,000	.05	350	17.5
Folpet		160	1,000	.16	1,120	56
HCB	6	1	1,000	.001	7	.35
PDB	1	13.4	1,000	.0134	93.8	4.7

Compound	Maximum observed concentrations in water (microgram per liter)	Maximum dose producing no observed adverse effect (milligram per kilogram per day)	Uncertainty factor [1]	ADI [2] (milligram per kilogram per day)	Suggested no adverse effect level from water, microgram per liter assumptions [3]	
					1	2
Parathion (and methyl parathion)		.043	10	.0043	30	1.5
Malathion		.2	10	.02	140	7
Maneb (and zineb)		.5	1,000	.005	35	1.75
Thiram		5	1,000	.005	35	1.75
Atrazine	5.0	21.5	1,000	.0215	150	7.5
Propazine	(4)	46.4	1,000	.0464	325	16
Simazine	(4)	215	1,000	.215	1505	75.25
Di-n-butyl phthalate	5	110	1,000	.11	770	38.5
Di (2-ethyl hexyl) phthalate	30	60	100	.6	4,200	210
Hexachlorophene	.01	1	1,000	.001	7	.35
Methyl methacrylate	1	100	1,000	.1	700	35
Pentachlorophenal	1.4	3	1,000	.003	21	1.05
Styrene	1	133	1,000	.133	931	46.5

[1] Uncertainty factor—the factor of 10 was used where good chronic human exposure data was available and supported by chronic oral toxicity data in other species, the factor of 100 was used where good chronic oral toxicity data were available in some animal species, and the factor of 1,000 was used with limited chronic toxicity data or when the only data available were from inhalation studies.

[2] Acceptable daily intake (ADI)—maximum dose producing no observed adverse effect divided by the uncertainty factor.

[3] Assumptions: Average weight of human adult = 70 kg. Average daily intake of water for man = 2 liters.
1. 20 pct of total ADI assigned to water, 80 pct from other sources.
2. 1 pct of total ADI assigned to water, 99 pct from other sources.

[4] Detected but not quantified.

[5] Detected.

TABLE 3.—*Organic pesticides and other organic contaminants found in drinking water, with insufficient data on chronic toxicity*

	Highest concentration in finished water (microgram per liter)
Acetaldehyde	0.1
Acrolein	
Bromobenzene	(1)
Bromoform	(1)
Carbon disulfide	(1)
Chloral	5.0
Chlorobenzene	5.6
Cyanogen chloride	.1
1,2-Dichloroethane	21.0
2,4-Dichlorophenol	36.0
2,4-Dimethylphenol	(1)
e-Caprolactam	(1)
Hetachloroethane	4.4
O-Methoxyphenol	(1)
Methyl chloride	(1)
Methylene chloride	7.0
Phenylacetic acid	4.0
Phthalic anhydride	(1)
Propylbenzene	<5.0
t-Butyl alcohol	.01
Tetrachloroethane	4.0
Tetrachloroethylene	<5.0
Toluene	11.0
Trichlorobenzene	1.0
1,1,2-Trichloroethane	(1)
Nicotine	3.0
Methomyl	
Cyanazine	(1)
xylene	<5.0

[1] Detected but not quantified.

TABLE 4.—*Organic contaminants found in drinking water; information on chronic toxicity lacking*

Compound	Highest concentration in finished water (microgram per liter)	Highest concentration in raw water (microgram per liter)
1,2-Bis (chloroethoxy) ethane	0.63	
Bis(2-chloroisopropyl) ether	1.58	
Bromochlorobenzenes	(1)	
Bromodichloromethane	116	11
Butyl bromide	(1)	
Chloroethyl methyl ether	(1)	
Chlorodibromomethane	100	1.4
Chlorohydroxybenzophenone	(1)	
Chloromethyl ethyl ether	(1)	
Chloropropene	(1)	
Crotonaldehyde	5.0	
Dibromobenzene	(1)	
Dibromodichloroethane	0.63	
1,3-Dichlorobenzene	<3.0	
Dichlorodifluoroethane	(1)	
Dichloroiodomethane	0.5	
1,1-Dichloro-2-hexano	1.0	
1,2-Dichloropropane	<1.0	
1,3-Dichloropropene	<1.0	
1,2-Dimethoxybenzene	(1)	
4,6-Dinitro-2-aminophenol	(1)	
Dioctyladipate	20.0	
Hexachloro-1,3-butadiene	0.07	
Isodecane	5.0	
Metachloronitrobenzene	(1)	
Methylstearate	(1)	
Nonane	4.0	
Octyl chloride	(1)	
Pentachlorophenyl methyl ether	0.1	
1,1,3,3-Tetrachloroacetone	1.0	1.0
2,4,6-Trichlorophenol	(1)	
Trimethylbenzene	6.1	

[1] Detected.

RESEARCH RECOMMENDATIONS

1. Because great uncertainty exists in connection with extrapolation of data from the present cancer bioassays, better premises and methodologies are needed to establish the extent to which humans are at risk from the low level exposures to organic substances in water. There is a need to know the extent to which low level exposure to a presumed carcinogen does in fact increase the probability of cancer during the lifetime of an individual.

It is recommended that work be done to better characterize current animal models and also develop new ones. Studies on the comparative metabolism between laboratory animals and man are urgently needed. It is necessary to know, for example, if a laboratory animal metabolizes a test compound in the same manner and rate as man. Better mutagenicity bioassays using mammalian cells should be developed. More work is needed in the area of interactions and synergism which these assay systems could more easily accommodate.

2. Organic material in water is thought by many to be responsible for contributing the initial reactants for many potentially harmful contaminants. To this end total organic carbon (TOC) in drinking water supplies must be better characterized and more extensively determined. Because some halogenated compounds are formed by chlorination of naturally occurring organic substances research on methods for destruction or removal of organic precursors of halogenated compounds prior to chlorination would lead to reduction in chlorinated products and their accompanying health hazards.

3. Epidemiologic studies to obtain quantitative measures of association between the frequency of malignant disease in humans and exposure to specific organic compounds found in drinking water are needed. In particular, ways are needed to develop useful epidemiologic data from examination of small populations of individuals occupationally exposed to drinking water contaminants. A major effort now needs to be directed at determining the health status of workers in industries where there is occupational exposure to compounds identified as animal carcinogens.

More accurate record keeping, a national death index, and more reliable analytical methods to monitor environmental exposure are needed.

4. There is a need for more and better toxicological data, on compounds which could not be evaluated at this time, especially creosote, methyl parathion, and acrolein all of which are high use pesticides. Data are needed in the area of low level, chronic (life time) exposures. Studies should include exposure to formulated products (i.e. mixtures) as well as pure compound.

5. There should be a periodic re-evaluation by newer, more sensitive and more predictive methodologies of these pesticides used in large volume.

DEFINITIONS

The Safe Drinking Water Committee adopted the following working definitions prior to its review of the scientific literature of organic contaminants:

Carcinogen. The term carginogen is used in its broad sense, because in most of the current human epidemiologic approaches and certain animal bioassays it is not possible to differentiate clearly between initi-

ating agents, promoting agents, and certain modifying factors. Any factor or combination of factors which increases the risk of cancer in humans is of concern regardless of its mechanism of action. The criteria listed here apply only to chemical agents.

A malignant neoplasm is composed of a population of cells displaying progressive growth and varying degrees of autonomy and cellular atypia. It displays, or it has the capacity for, invasion of normal tissues, metastases, and causing death to the host. Benign neoplasms are a less autonomous population of cells and exhibit little or no cellular atypia or invasion of normal tissues and do not metastasize. In particular cases, however, benign neoplasms may endanger the life of the host by a variety of mechanisms, including hemorrhage, encroachment on a vital organ, or unregulated hormone production. The cytologic and histologic criteria utilized in determining whether a lesion is benign or malignant differ depending upon the tissue in which the neoplasm arises. Evaluation of whether a specific lesion is benign or malignant should therefore, follow standard criteria used by experimental oncologists and pathologists with the emphasis on correlation of the histopathologic pattern with the biologic behavior of the lesion or type of lesion. In equivocal cases, the diagnosis of a specific lesion may require a panel of experts; recognizing that they may not always agree.

Depending upon the particular case, benign neoplasms may represent a stage in the evolution of a malignant neoplasm and in other cases they may be "end points" which do not readily undergo transition to malignant neoplasms.

A. CRITERIA IN HUMAN STUDIES

An agent—which may comprise a combination of chemicals—is carcinogenic in man if it increases the incidence of malignant neoplasms (or a combination of benign and malignant neoplasms) in humans to levels that are significantly higher than those in a comparable group not exposed (or exposed at a lower dose) to the same agent. If all of the induced neoplasms are benign, rather than malignant, then, for the reasons given elsewhere in this document, the agent must be considered a possible carcinogen and it should, therefore, be very carefully evaluated as a health hazard.

Types of evidence suggesting that an agent is carcinogenic in humans include: Neoplastic response directly related to exposure (both duration and dose); incidence and mortality differences related to occupational exposure; incidence and mortality differences between geographic regions related to different exposures rather than genetic differences and/or altered incidence in migrant populations; time trends in incidence or mortality related to either the introduction or removal of a specific agent from the environment; case control studies; and the results of retrospective-prospective and prospective studies of the consequences of human exposure. Clinical case reports may also provide early warning of a potential carcinogen. Negative epidemiologic data may not establish the safety of suspected materials. Negative data on a given agent obtained from extensive epidemiologic studies of sufficient duration are useful for indicating upper limits for the rate at which a specific type of exposure to that agent could affect the incidence and/or mortality of specific human cancers.

B. CRITERIA IN EXPERIMENTAL ANIMAL STUDIES

The carcinogenicity of a substance is established when the administration to groups of animals in adequately designed and conducted experiments results in increases in the incidence of one or more types of malignant neoplasms (or a combination of benign and malignant neoplasms) in the treated groups as compared to control groups maintained under identical conditions but not given the test compound. The increased incidence of neoplasms in one or more of the experimental groups should be evaluated statistically for significance, and the only major experimental variable between the control and the experimental group should be the absence or presence of the single test agent. Such increases may be regarded with greater confidence if positive results are observed in more than one group of animals or in different laboratories. The demonstration that the occurrence of neoplasms follows a dose-dependent relationship provides additional evidence of a positive result.

The occurrence of benign neoplasms raises the strong possibility that the agent in question is also carcinogenic since compounds that induce benign neoplasms frequently induce malignant neoplasms. In addition, benign neoplasms may be an early stage in a multi-step carcinogenic process and they may progress to malignant neoplasms; also, benign neoplasms may be an early stage in the health and life of the host. For these reasons, if a substance is found to induce benign neoplasms in experimental animals it should be considered a potential human health hazard which requires further evaluation. In experiments where the increased incidence of malignant neoplasms in the treated group is of questionable significance, a parallel increase in incidence of benign tumors in the same tissue adds weight to the evidence for carcinogenicity of the test substance (from General Criteria for Assessing the Evidence for Carcinogenicity of Chemical Substances. Report of the Subcommittee on Environmental Carcinogenesis NCI, 1976).

Mutagen. A chemical that is capable of producing a heritable change in genetic material. These changes may be either point mutations or chromosomal mutations and can occur in either somatic or germ cells.

Teratogen. An agent which acts during pregnancy to produce a physical or functional defect in the developing offspring.

Organoleptic test. The use of odor and taste thresholds to establish permissible levels of exposure to chemicals.

Adverse Response. "With increasing dosage in the continuum of the dose-response relationship, the region is generally entered where the effects are clearly adverse. Thus, adverse effects may be defined as changes that:

1. Occur with intermittent or continued exposure and that result in impairment of functional capacity (as determined by anatomical, physiological, and biochemical, or behavioral parameters) or in a decrement of the ability to compensate for additional stress;

2. Are irreversible during exposure or following cessation of exposure if such changes cause detectable decrements in the ability organism to maintain homeostasis; and

3. Enhance the susceptibility of the organisms to the deleterious effects of other environmental influences."

(From the NAS publication, Principles for Evaluating Chemicals in the Environment, 1975)

Toxicity. The intrinsic quality of a chemical to produce an adverse effect. The term includes capacity to induce teratogenic, mutagenic, and carcinogenic effects.

Safety. "Safety is the practical certainty that injury will not result from the substance when used in the quantity and in the manner proposed for its use."

(From Evaluating the Safety of Food Chemicals, NAS, 1970)

Evaluation of Safety. "An estimation of the potential of the substance to cause injury and review and evaluation of sufficient data to warrant a conclusion that the conditions of proposed use will provide an intake so low in relation to the toxic dose that there is a practical certainty no harm can result." (from FDA Papers, November, 1971)

For the purpose of this study the proposed use was limited only to exposure from drinking water.

Safety Factor or Uncertainty Factor. A number that reflects the degree or amount of uncertainty which must be considered when experimental data in animals are extrapolated to man. When the quality and quantity of data are high the uncertainty factor is low and when data are inadequate or equivocal, the uncertainty factor must be larger.

The following general guidelines have been adopted in establishing the uncertainty factors.

1. Valid experimental results from studies on prolonged ingestion by man, with no indication of carcinogenicity. Uncertainty Factor = 10

2. Experimental results of studies of human ingestion not available or scanty (e.g., acute exposure only). Valid results of long-term feeding studies on experimental animals or in the absence of human studies, valid animal studies on one or more species. No indication of carcinogenicity. Uncertainty Factor = 100

3. No long-term or acute human data. Scanty results on experimental animals. No indication of carcinogenicity. Uncertainty Factor = 1,000

These uncertainty factors are used in every case as a divisor of the highest reported long-term dose that is observed not to produce any adverse effect.

CARCINOGENS: CATEGORIES IN TABLE 1.

Human Carcinogen—Based on strong epidemiological evidence and toxicological studies in animals.

Suspected Human Carcinogens—Based on limited epidemiological evidence in man and equivocal toxicological studies in animals.

Animal Carcinogens—Based on toxicological studies in at least one species of animal.

Suspected Animal Carcinogens—Based on equivocal toxicological studies in animals or on a structural similarity to a known carcinogen.

RADIOACTIVITY IN DRINKING WATER

Everyone is exposed to some natural radiation that comes from both cosmic rays and terrestrial sources. Although there are large geographic variations in the amount of natural background radiation, the average background dose in the United States is about 100 mrem/year. A small proportion of this unavoidable background radiation comes from drinking water that contains radionuclides.

By far the largest contribution to the radioactivity in drinking water comes from potassium-40, which is present as a constant percentage of total potassium. Only a small percentage of the total potassium-40 body burden, however, comes from drinking water. The total body dose from other possible radioactive contaminants of water constitutes a small percentage of the background radiation to which the population is exposed. Although the amounts of individual radioactive contaminants fluctuate from place to place, calculations made for a hypothetical water supply that might be typical for the United States have shown that a total soft-tissue dose of only 0.24 mrem/year would be contributed by all the radionuclides found in the water. Even with rather wide fluctuations in the concentrations, the total contribution of the radionuclides will remain very small.

However, bone-seeking radionuclides—such as strontium-90, radium-226, and radium-228—account for a somewhat larger propor-

tion of the total bone dose. This is particularly true for the two isotopes of radium because they emit high-linear-energy-transfer (LET) radiation, and because certain restricted localities have been found to have rather high concentrations of radium in drinking water. Nevertheless, in the hypothetcal typical water supply, less than 10 percent of the annual background dose comes from such radiation. It has also been estimated that the total population exposed to levels of radium greater than 3 pCi/liter is about a million people. About 120,000 people are exposed to radium at levels greater than 9 pCi/liter.

Risk estimates were made of three kinds of adverse health effects that radiation could produce: developmental and teratogenic effects, genetic effects, and somatic (chiefly carcinogenic) effects.

DEVELOPMENTAL AND TERATOGENIC EFFECTS

The developing fetus is exposed to radiation from radionuclides in drinking water for nine months. Thus, the total dose accumulated by the fetus will be very small. Furthermore, although the fetus is sensitive to the effects of radiation in some stages of development, these periods are sharply limited and extremely short. For this reason, too, the total dose administered that could have possible developmental and teratogenic effects would be extremely small. Current concentrations of radionuclides in drinking water lead to doses of about one five-thousandth of the lowest dose at which a developmental effect has been found in animals. Therefore, the developmental and teratogenic effects of radionuclides would not be measurable.

GENETIC EFFECTS

It has been estimated that there are about 94,400 genetic diseases per million live births in the United States. The maximum permissible dose of man-made radiation for the general population (170 mrem/year) has been estimated to increase this number in the first generation by 170–215, with an unlikely upper limit of 4,250. On the basis of a 30-year generation and 3.6 million live births per year in the United States, we would expect the 0.24 mrem soft-tissue dose, or gonad dose, to lead to 0.0098 additional cases of genetic disease per million live births per year or 0.035 additional cases of genetic disease in the United States per year. Even at the unlikely extreme upper limit of possible genetic effects of radiation of around 4,000 extra cases in the first generation, there would still be less than one additional case in the $94{,}400 \times 3.6 = 340{,}000$ live births with genetic defects. The wide fluctuation in bone dose caused by fluctuations in the radium concentration of drinking water would not have any sensible effect on the genetically significant dose, because radium is predominantly a bone-seeker and will deliver very little radiation to the gonads.

SOMATIC AND CARCINOGENIC EFFECTS

The natural background of radiation can be estimated to cause 4.5 to 45 cases of cancer per million people, depending on the risk model used. The amount of whole-body radiation from radionuclides in typical drinking water contributes less than 1 percent of this amount, and thus, for cancers other than those in bone, may cause a negligible increase in the total. Radium, however, can contribute somewhat less than 7 percent of the total bone dose received from background radiation in areas of "normal" radium concentration. The average carcinogenic risk associated with skeletal irradiation by radium in a population with a typical distribution of ages, is estimated to approximate 0.2 fatal cases of bone cancer per million persons per year per rem. Therefore, over a period from 10 to 40 years after the beginning of skeletal irradiation, the average risk attributable to natural background radiation is estimated to range from 0.6 per million persons per year, under typical conditions, to as much as 4.2 per million per year, in regions where 25 pCi/liter of radium-226 are found in the drinking water. It has been noted that in the United States 120,000 people are estimated to drink water containing between 9 and 25 pCi/liter or radium-226 and only a small number lie near the upper end of this range. The number of excess cancers in this group would therefore lie between 0.16 and 0.43 per year. Since not all the 120,000 people drink water containing 25 pCi/liter of radium-226, the latter number is inordinately high.

CONCLUSIONS

The radiation associated with most water supplies is such a small proportion of the normal background to which all human beings are exposed, that it is difficult, if not impossible, to measure any adverse health effects with certainty. In a few water supplies, however, radium can reach concentrations that pose a higher risk of bone cancer for the people exposed.

FUTURE NEEDS

The precision of estimation of the health risks associated with radioactivity in drinking water could be enhanced if several water systems were analyzed to determine the complete distributions of beta and alpha radiation that constitute the gross counting measurements.

Because the precise ratio of radium-228 to radium-226 in water has not been measured extensively, an attempt should be made to determine the ratio in several ground and surface waters whose content of radium-226 is known. The waters to be analyzed should range from about 0.1 to 50 pCi/liter. The percentage of the daughter radionuclides present should be determined.

Because radon is a noble gas that is quickly released from water, it is possible that, in some areas of high radon content, water vapor containing radon might constitute an inhalation hazard when such water is used, for example, in humidifiers or for showers. A determination should be made whether or not radon emanations from water do indeed constitute an inhalation hazard.

The models used in this report do not take into account the possibility that the finely divided solid particles that occur in water may alter the uptake of radionuclides. The effects of the solids in drinking water on the metabolism and uptake of radionuclides merit investigation.

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federal register

MONDAY, JULY 11, 1977

PART IV

DEPARTMENT OF TRANSPORTATION

Coast Guard

■

VESSEL BRIDGE-TO-BRIDGE RADIOTELEPHONE REGULATIONS; COLREGS DEMARCATION LINES

Establishment

INTERNATIONAL REGULATIONS FOR PREVENTING COLLISIONS AT SEA, 1972

Implementation and Interpretation

BOUNDARY LINES, DOMESTIC AND FOREIGN VOYAGES BY SEA

Republication

Title 33—Navigation and Navigable Waters

CHAPTER I—COAST GUARD, DEPARTMENT OF TRANSPORTATION

[CGD 77-118a]

PART 26—VESSEL BRIDGE-TO-BRIDGE RADIOTELEPHONE REGULATIONS

PART 82—COLREGS DEMARCATION LINES

Establishment of Demarcation Lines

AGENCY: Coast Guard, DOT.

ACTION: Final Rule.

SUMMARY: These amendments set out the regulations establishing the demarcation lines between Inland Rules Waters and COLREGS Waters. These amendments are necessary because when the International Regulations for Preventing Collisions at Sea 1972 (COLREGS 72) come in to force on July 15, 1977, it will no longer be legally possible for the United States to require vessels to comply with the Navigation Rules for Harbors, Rivers, and Inland Waters upon the high seas or the territorial seas outside of rivers, harbors, and inland waterways. The existing boundary lines will be transferred to Title 46 of the Code of Federal Regulations and will continue to be used to ascertain the applicability of statutes relating to vessel inspection and manning requirements. The demarcation lines published in this document will delineate the outer limits of harbors, river mouths and inland waterways the purpose of the applicability of COLREGS 72.

EFFECTIVE DATE: This amendment is effective at 1200 hours, Zone Time on July 15, 1977.

FOR FURTHER INFORMATION CONTACT:

Captain George K. Greiner, Marine Safety Council (G-CMC/81), Room 8117, Department of Transportation, Nassif Building, 400 Seventh Street SW., Washington, D.C., 20590 (202-426-1477).

SUPPLEMENTARY INFORMATION: This amendment is concerned with a foreign affairs function of the United States. Further, the 72 COLREGS become effective on July 15, 1977, repealing existing international rules of the road. Unless this amendment takes effect at that time, there will be a conflict between the Inland Rules and 72 COLREGS which presents a potential hazard to the safety of life and property at sea. Therefore, notice and public procedure hereon are contrary to the public interest and good cause exists for making the amendment effective in fewer than 30 days after publication in the FEDERAL REGISTER. Though opportunity to comment has not been provided for this rulemaking, persons wishing to comment on individual changes may do so by making written submissions to the Executive Secretary of the Marine Safety Council at the address listed above. Based upon comments received, minor adjustments to the demarcation lines may be made as appropriate.

DRAFTING INFORMATION

The principal persons involved in drafting this rule are: Commander J. E. Margeson, Jr., Project Manager, Office of Marine Environment and Systems, and Captain C. R. Hallberg, Project Attorney, Office of the Chief Counsel.

DISCUSSION OF REGULATIONS

When the International Regulations for Preventing Collisions at Sea 1972 (COLREGS 1972) come into force on July 15, 1977, it will no longer be legally possible for the United States to require vessels to comply with the Navigation Rules for Harbors, Rivers and Inland Water (Inland Rules) upon the high seas or the territorial seas outside of rivers, harbors, and inland waterways.

Statutory authority, 33 U.S.C. 151, has heretofore been used to delineate the boundary line between the waters upon which the Inland Rules applied (Inland Rules Waters) and the waters upon which the International Regulations for Preventing Collisions applied (COLREGS Waters). The Congress has also employed 33 U.S.C. 151 to ascertain the application of a number of domestic statutes, relating to vessel inspection and manning requirements, which have nothing whatsoever to do with either the COLREGS or the Inland Rules, even though it is clear that coincidence of this boundary line for the purposes of vessel inspection and manning requirements and for the purposes of Navigation Rules is not necessarily appropriate.

The early efforts to establish International Rules for Preventing Collisions at Sea culminated in the Washington Conference of 1889, when a comprehensive set of rules was elaborated (COLREGS 1889). It is important to understand that COLREGS 1889 was not accorded the status of a treaty. Rather it was in the nature of model legislation which each nation was expected to put into force by enacting domestic law. In the United States, this was accomplished by the Act of August 19, 1890. Since COLREGS 1889 applied not only to the high seas but to internal waters capable of being navigated by seagoing vessels, except where local rules were in force, it was necessary to provide for delineating those areas where COLREGS 1889 would apply and those areas where local rules would apply. The local rules were restated subsequently in one statute, the Act of June 7, 1897 (Inland Rule) for most waters of the United States. (The establishment of the rules for the Great Lakes and for the so-called Western Rivers is not pertinent to this regulatory change.)

The Act of February 19, 1895, authorized the Secretary of the Treasury (now the Commandant by amendments and delegations) to designate and define the lines dividing the high seas from rivers, harbors and inland waters, 33 U.S.C. 151 (Boundary Line).

Because both COLRECS 1889 and the Inland Rules were in fact domestic legislation, the particular location of the Boundary Line was considered a domestic matter. Boundary Lines were delineated from time to time and in certain cases these lines extended beyond the limits of the territorial sea of the United States. As a matter of international law, the high seas are defined as all parts of the sea that are not included in the territorial sea or in the internal waters of a nation. This definition was codified in the Convention on the High Seas, Geneva 1958, a treaty which is in force and to which the United States is party. The United States has never diverged from the position taken by Thomas Jefferson that the breadth of the territorial sea is one marine league (three nautical miles). The result of establishing the Boundary Line beyond the limits of the territorial sea was to create an anomalous situation. Areas which were clearly part of the high seas were nevertheless delineated as part of the inland waters of the United States for the purposes, not only of statutes having only domestic application, but for the navigation rules as well. It should be noted that the term "inland waters" as well as the term "navigable waters of the United States" (which are frequently and incorrectly used interchangeably), are legal concepts peculiar to the United States and have no counterpart in international law. However even in their broadest understanding, the terms only include the internal waters and the territorial sea.

Over a long period of years, the following statutes have been enacted, all of which employ the Boundary Line statute, 33 U.S.C. 151, to establish applicability. None of these statutes relate to navigation rules but deal instead with vessel inspection, equipment, and manning standards.

The Vessel Bridge-to-Bridge Communications Act, 33 U.S.C. 1201 et seq. requires the carriage of radiotelephones on board certain vessels inside the Boundary Line. (The requirement is further conditioned upon the vessels being upon the navigable waters of the United States.)

The Officers Competency Certificates Convention Geneva, 1936, is in force and the United States is party thereto. Article 1 extends the Convention to all vessels registered in a nation party to the Convention and engaged in maritime navigation. The domestic legislation on the topic, 46 U.S.C. 224a, limits the application of the Convention, for the United States, to vessels navigating on the high seas pursuant to the understanding filed by the United States at the time of ratification ("That the United States Government understands and construes the words 'maritime navigation' appearing in this convention to mean navigation on the high seas only,"), and then defines the high seas with reference to the Boundary Line.

For the purpose of manning certification, crew quarters inspection, and continuous discharge books, seagoing barges are defined by 46 U.S.C. 672c in reference to the Boundary Line. (It should be noted that for inspection purposes, the Seagoing Barge Act, 46 U.S.C. 395, makes no reference to the Boundary Line). This is a matter of domestic legislation.

The Coastwise Loadline Act, 46 U.S.C. 88, applies to merchant vessels 150 gross tons and over engaged in coastwise voyages by sea, passing outside the Boundary Line. Since the international convention concerning loadlines (implemented by 46 U.S.C. 86 et seq.) applies only to inter-national voyages, the imposition of loadlines on vessels in the coastwise trade is entirely a matter for domestic legislation.

46 U.S.C. 367 relating to sea-going vessels of 300 gross tons and over propelled by internal combustion engines, defines sea-going with reference to the Boundary Line.

NOTE.—Amendments in 1968, 1973, and 1974, do not repeal this reference but by error the U.S. Code has omitted the statutory reference.

Since the United States' obligations under the Safety of Life at Sea Convention, 1960, have reference to vessels engaged in international voyages, the nonapplication of 46 U.S.C. 367 to motor ships operating solely on the high seas shoreward of the Boundary Line is entirely a matter for domestic legislation.

The final statute, 46 U.S.C. 672–1, employing the Boundary Lines is an exemption from certain manning requirements (under 46 U.S.C. 672) for sailing vessels under 500 tons not carrying passengers for hire while operating shoreward of the Boundary Line. Again this is a statute of domestic application.

The Coast Guard has concluded that by virtue of the enactment of the foregoing statutes, a principal legislative purpose of 33 U.S.C. 151 has become that of establishing a Boundary Line for certain vessel inspection, equipment and manning purposes. Moreover, the original purpose of providing a Boundary Line between the application of two separate domestic statutes relating to navigation rules will necessarily terminate when the domestic statute implementing COLREGS 1960 is superceded. Accordingly, the Coast Guard has also concluded that upon the effective date of COLREGS 1972, there will be no authority under 33 U.S.C. 151 to delineate Boundary Lines for the purposes of the application of COLREGS 1972 and the Inland Rules. However the authority under 33 U.S.C. 151 to establish an administrative boundary line for the purposes of the statutes relating to vessel inspection, equipment and manning discussed above remains unaltered. Accordingly it is no longer appropriate to publish the Boundary Line in Part 82 of Title 33 of the Code of Federal Regulations since that Part deals with navigation rules. The Boundary Line will be republished, without substantive change, in Title 46 of the Code of Federal Regulations to reflect the purpose of delineating the application of certain vessel inspection, equipment and manning statutes. The republication of the regulations appears at page 35793 of this issue of the FEDERAL REGISTER.

The International Rules for Preventing Collisions at Sea, subsequent to COLREGS 1889, were revised in 1948 and 1960. The legal status of these revisions remained the same as the original formulation. They were not submitted to the Senate for advice and consent. They were put into force by domestic legislation. COLREGS 1960, the current navigation rules, was put into force for United States vessels by the Act of September 24, 1963, 33 U.S.C. 1051 et seq.

Dissatisfaction was expressed within the maritime community with the cumbersome and expensive mechanism for updating the COLREGS which required the calling of a special international conference and obtaining what amounted to a consensus of maritime states before a new instrument could become effective. Accordingly, the maritime nations concluded that a new approach, creating a basic instrument susceptible of amendment by a rapid procedure, was needed. The preparatory work conducted by the Intergovernmental Maritime Consultative Organization (IMCO) led to the conclusion that the status of the COL REGS would have to be changed to that of a multilateral treaty, or convention, in order that a rapid amendment procedure could be instituted. Therefore at the London Conference on Revision of the International Regulations for Preventing Collisions at Sea, 1972, the new instrument, COLREGS 1972 was developed as and given the status of a treaty. Pursuant to this change in status, in the United States COLREGS 1972 was submitted to the Senate for advice and consent, which was duly given. Subsequently on November 23, 1976, the United States deposited its instrument of acceptance with the Secretary of IMCO. In further conformity with treaty practice, the United States, on March 30, 1977, gave notice to the Secretary General of IMCO that, pursuant to Article III of COLREGS 1972, the application of the treaty was extended to the U.S. territories and possessions.

The convention, COLREGS 1972, comes into force on July 15, 1977. By virtue of the second clause of Article VI of the Constitution, on that date COLREGS 1972 becomes the law of the land and thereupon the statutory provisions for COLREGS 1960, 33 U.S.C. 1051 et seq. will be repealed and superseded.

Rule 1a of COLREGS 1972 provides that the rules shall be applicable to all vessels upon the high seas and in all waters connected therewith navigable by seagoing vessels. Rule 1b further provides that nothing in the rules shall interfere with the operation of special rules made by an appropriate authority for roadsteads, harbors, rivers, lakes or inland waterways connected with the high seas and navigable by seagoing vessels. (The rule further provides that such special rules shall conform as closely as possible to the International Rules. It is clear that the authority in Rule 1b for the operation of special rules (i.e., the Inland Rules) is not applicable to the high seas. Because the high seas are defined by treaty, the United States can no longer prescribe the application of the Inland Rules to an area of the high seas.

The Inland Rules remain as the special rules applicable to harbors, rivers, lakes and inland waterways connected with the high seas and navigable by seagoing vessels. It is obvious that new lines of demarcation must be drawn in order that the mariner will know precisely when he is operating on COLREGS Waters and when he is operating on Inland Rules Waters. 14 U.S.C. 2 provides that the "Coast Guard * * * shall administer laws and promulgate and enforce regulations for the promotion of safety of life and property on and under the high seas and waters subject to the jurisdiction of the United States * * * " Section 4 of Executive Order 11964, published in the January 19, 1977 FEDERAL REGISTER (42 FR 4327) authorizes the Secretary of the Department in which the Coast Guard is operating to promulgate such rules and regulations that are necessary to implement the provisions of COLREGS 1972 and to publish implementing regulations and interpretive rulings in the FEDERAL REGISTER. Part 82 of Title 33 of the Code of Federal Regulations will be retitled COLREGS Demarcation Lines and the regulations and interpretive rulings with regard to the demarcation lines between Inland Rules Waters and COLREGS Waters will be published in that Part. By virtue of the limitations imposed by COLREGS 1972 these lines are necessarily restricted to delineating the outer limits of harbors, river mouths and inland waterways. COLREGS 1972 does not contemplate that substantial areas of the territorial sea shall be Inland Rules Waters. Consequently the mariner should recall that there are areas principally in the Gulf of Mexico and along the eastern seaboard of the United States encompassing both portions of the high seas and of the territorial waters of the United States where the Inland Rules have been in force under previous law. However as of July 15, 1977, COLREGS 1972 will be applicable to most of these areas. Mariners must disregard the Boundary Lines drawn pursuant to 33 U.S.C. 151 shown on current charts. In due course, charts will be printed with the new COLREGS Demarcation Line. The old Boundary Line, under 33 U.S.C. 151, will no longer be printed on navigational charts as it will have no navigational significance.

In delineating the COLREGS demarcation lines, certain principles were followed. The lines were drawn to conform with Rule 1(b) of COLREGS 72. The lines are defined, whenever possible, by physical objects readily discernible to the mariner by eye, rather than by instrument.

It was found neither desirable nor practicable to have a general rule for delimintations. Irregular shorelines preclude a clear interpretation of any general rule. The availability of fixed aids, jetties, or other prominent objects often proved more desirable than natural objects. Objects near shore that described the shortest feasible lines as perpendicular as possible to vessel traffic flow were utilized. These objects listed in priority were: Fixed lighted aids to navigation, other charted visible lights, fixed un-

lighted aids to navigation, prominent points on land, lines of objects in range, buoys marking the end of a submerged jetty, and tangents or extensions of the high water shoreline. At times it was necessary to describe a line from a single object. When this was the case, the following methods were used to describe the line: lines were extended through objects to the shoreline, lines were described on cardinal headings from objects, lines were drawn from objects to the closest points on the shoreline, or lines of bearing were described from objects. When necessary to avoid ambiguity, the latitude and/or longitude were included. Local situations were always given consideration.

The lines were drawn in an attempt to limit the situations in which vessels operating under different Rules would converge. The intention is to avoid the crossing situation in favor of the meeting situation.

This rule also contains the COLREGS demarcation line for Prince William Sound Alaska. This line was published as a notice of proposed rulemaking in Coast Guard docket (CGD 76-049) in the January 31, 1977, issue of the FEDERAL REGISTER (42 FR 5705). Interested persons were given until March 17, 1977, to submit comments. No comments were received.

Accordingly, Title 33 of the Code of Federal Regulations is amended as follows:

§ 26.02 [Amended]

1. In § 26.02 of Part 26, by deleting the definition of "Navigable waters of the United States inside the lines established pursuant to section 2 of the Act of February 19, 1895 (28 Stat. 672), as amended".

2. By revising Part 82 to read as follows:

GENERAL

ATLANTIC COAST

FIRST DISTRICT

THIRD DISTRICT

FIFTH DISTRICT

SEVENTH DISTRICT

PUERTO RICO AND VIRGIN ISLANDS

SEVENTH DISTRICT

GULF COAST

SEVENTH DISTRICT

EIGHTH DISTRICT

PACIFIC COAST

ELEVENTH DISTRICT

TWELFTH DISTRICT

THIRTEENTH DISTRICT

PACIFIC ISLANDS

FOURTEENTH DISTRICT

ALASKA

SEVENTEENTH DISTRICT

AUTHORITY: (Rule 1, International Regulations for Preventing Collisions at Sea, 1972 (as rectified); E.O. 11964; 14 U.S.C. 2; 49 CFR 1.46(b)).

GENERAL

§ 82.01 General basis and purpose of demarcation lines.

(a) The regulations in this part establish the lines of demarcation delineating those waters upon which mariners must comply with the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS) and those waters upon which mariners must comply with the Navigation Rules for Harbors, Rivers, and Inland Waters (Inland Rules).

(b) The waters inside of the lines are Inland Rules Waters. The waters outside the lines are COLREGS Waters.

(c) The regulations in this part do not apply to the Great Lakes or their con-

necting and tributary waters as described in Part 90 of this Chapter, or the Western Rivers as described in Part 95 of this Chapter.

ATLANTIC COAST

FIRST DISTRICT

§ 82.105 Calais, ME to Cape Small, ME.

The 72 COLREGS shall apply on the harbors, bays, and inlets on the east coast of Maine from International Bridge at Calais, ME to the southwesternmost extremity of Bald Head at Cape Small.

§ 82.110 Casco Bay, ME.

(a) A line drawn from the southwesternmost extremity of Bald Head at Cape Small to the southeasternmost extremity of Ragged Island; thence to the southern tangent of Jaquish Island thence to Little Mark Island Monument Light; thence to the northernmost extremity of Jewell Island.

(b) A line drawn from the tower on Jewell Island charted in approximate position latitude 43°40.6′ N. longitude 70°05.9′ W. to the northeasternmost extremity of Outer Green Island.

(c) A line drawn from the southwesternmost extremity of Outer Green Island to Ram Island Ledge Light; thence to Portland Head Light.

§ 82.115 Portland Head, ME to Cape Ann, MA.

(a) Except inside lines specifically described in this section, the 72 COLREGS shall apply on the harbors, bays, and inlets on the east coast of Maine, New Hampshire, and Massachusetts from Portland Head to Halibut Point at Cape Ann.

(b) A line drawn from the southernmost tower on Gerrish Island charted in approximate position latitude 43°04.0′ N. longitude 70°41.2′ W. to Whaleback Light; thence to Jaffrey Point Light; thence to the northeasternmost extremity of Frost Point.

(c) A line drawn from the northernmost extremity of Farm Point to Annisquam Harbor Light.

§ 82.120 Cape Ann, MA to Marblehead Neck, MA.

(a) Except inside lines specifically described in this section, the 72 COLREGS shall apply on the harbors, bays and inlets on the east coast of Massachusetts from Halibut Point at Cape Ann to Marbelhead Neck.

(b) A line drawn from Gloucester Harbor Breakwater Light to the twin towers charter in approximate position latitude 42°35.1′ N. longitude 70°41.6′ W.

(c) A line drawn from the westernmost extremity of Gales Point to the easternmost extremity of House Island; thence to Bakers Island Light; thence to Marblehead Light.

§ 82.125 Marblehead Neck, MA to Winthrop Head, MA.

The 72 COLREGS shall apply on the bays, harbors and inlets on the east coast of Massachusetts from Marblehead Neck to Winthrop Head.

§ 82.130 Boston Harbor Entrance.

A line drawn from the standpipe on Winthrop Head charted in approximate position latitude 42°22.1′ N. longitude 70°58.1′ W. to Great Faun Bar Daybeacon; thence to Boston Light; thence to the tower on Point Allerton charted in approximate position latitude 42°18.4′ N. longitude 70°53.1′ W.

§ 82.135 Point Allerton, MA to Race Point, MA.

(a) Except inside lines specifically described in this section, the 72 COLREGS shall apply on the harbors, bays and inlets on the east coast to Massachusetts from Point Allerton to Race Point on Cape Cod.

(b) A line drawn from Cape Cod Canal Breakwater Light south to the shoreline.

§ 82.140 Race Point, MA to Martha's Vineyard, MA.

(a) The 72 COLREGS apply to the harbors, bays and inlets along the coast of Cape Cod from Race Point to the southernmost extremity of Nauset Beach.

(b) A line drawn from the southernmost extremity of Nauset Beach to the northernmost extremity of Monomoy Island.

(c) A line drawn from the abandoned lighthouse tower on the southern end of Monomoy Island to Nantucket (Great Point Light).

(d) A line drawn from the westernmost extremity of Nantucket Island to the southernmost tangent of Wasque Point on Marthas Vineyard.

§ 82.145 Marthas Vineyard, MA to Watch Hill, RI.

(a) Except inside lines specifically described in this section, the 72 COLREGS shall apply on the harbors, bays and inlets on the south coast of Massachusetts and Rhode Island from Marthas Vineyard to Watch Hill.

(b) A line drawn from Gay Head Light to the southwestern tangent of Cuttyhunk Island; thence to the tower on Gooseberry Neck charted in approximate position latitude 41°29.1′ N. longitude 71°02.3′ W.

(c) A line drawn from Sakonnet Breakwater Light to the silo on Sacnuest Point charted in approximate position latitude 41°28.5′ N. longitude 71°09.8′ W.

(d) An east-west line drawn through Beavertail Light between Brenton Point and the Boston Neck shoreline.

§ 82.150 Block Island, RI.

The 72 COLREGS shall apply on the harbors of Block Island.

THIRD DISTRICT

§ 82.305 Watch Hill, RI to Montauk Point, NY.

(a) A line drawn from Watch Hill Light to East Point on Fishers Island.

(b) A line drawn from Race Point to Race Rock Light; thence to Little Gull Island Light thence to East Point on Plum Island.

(c) A line drawn from Plum Island Harbor East Dolphin Light and Plum Island Harbor West Dolphin Light.

(d) A line drawn from Plum Island Light to Orient Point Light; thence to Orient Point.

(e) A line drawn from the light house ruins at the southwestern end of Long Beach Point to Cornelius Point.

(f) A line drawn from Coecles Harbor Entrance Light to Sungic Point.

(g) A line drawn from Nichols Point to Cedar Island Light.

(h) A line drawn from Three Mile Harbor West Breakwater Light to Three Mile Harbor East Breakwater Light.

(i) A line drawn from Montauk West Jetty Light to Montauk East Jetty Light.

§ 82.310 Montauk Point, NY to Atlantic Beach, NY.

(a) A line drawn from Shinnecock Inlet East Breakwater Light to Shinnecock Inlet West Breakwater Light.

(b) A line drawn from Moriches Inlet East Breakwater Light to Moriches Inlet West Breakwater Light.

(c) A line drawn from Fire Island Inlet Breakwater Light 348° true to the southernmost extremity of the spit of land at the western end of Oak Beach.

(d) A line drawn from Jones Inlet Light 142° true across the southwest tangent of the island on the north side of Jones Inlet to the shoreline.

§ 82.315 New York Harbor.

A line drawn from East Rockaway Inlet Breakwater Light to Sandy Hook Light.

§ 82.320 Sandy Hook, NJ to Cape May, NJ.

(a) A line drawn from Shark River Inlet North Breakwater Light to Shark River Inlet South Breakwater Light.

(b) A line drawn from Manasquan Inlet North Breakwater Light to Manasquan Inlet South Breakwater Light.

(c) A line drawn from Barnegat Inlet North Breakwater Light to Barnegat Inlet South Breakwater Light continues along the lines formed by the submerged Barnegat Inlet Breakwaters to the shoreline.

(d) A line drawn from the seaward tangent of Long Beach Island to the seaward tangent to Pullen Island across Beach Haven and Little Egg Inlets.

(e) A line drawn from the seaward tangent of Pullen Island to the seaward tangent of Brigantine Island across Brigantine Inlet.

(f) A line drawn from the seaward extremity of Absecon Inlet North Jetty to Atlantic City Light.

(g) A line drawn from the southernmost point of Longport at latitude 39° 18.2′ N. longitude 74°32.2′ W. to the northeasternmost point of Ocean City at latitude 39°17.6′ N. longitude 74°33.1′ W. across Great Egg Harbor Inlet.

(h) A line drawn parallel with the general trend of highwater shoreline across Corson Inlet.

(i) A line formed by the centerline of the Townsend Inlet Highway Bridge.

(j) A line formed by the shoreline of Seven Mile Beach and Hereford Inlet Light.

(k) A line drawn from Cape May Inlet East Jetty Light to Cape May Inlet West Jetty Light.

§ 82.325 Delaware Bay.

A line drawn from Cape May Light to Harbor of Refuge Light; thence to the northernmost extremity of Cape Henlopen.

FIFTH DISTRICT

§ 82.505 Cape Henlopen, DL to Cape Charles, VA.

(a) A line drawn from Indian River Inlet North Jetty Light to Indian River Inlet South Jetty Light.

(b) A line drawn from Ocean City Inlet Light 6 234° true across Ocean City Inlet to the submerged south breakwater.

(C) A line drawn from Assateague Beach Tower Light to the tower charted at latitude 37°52.6′ N. longitude 75°-26.7′ W.

(d) A line formed by the range of Wachapreague Inlet Light 3 and Parramore Beach Lookout Tower drawn across Wachapreague Inlet.

(e) A line drawn from the lookout tower charted on the northern end of Hog Island to the seaward tangent of Parramore Beach.

(f) A line drawn 207° true from the lookout tower charted on the southern end of Hog Island across Great Machipongo Inlet.

(g) A line formed by the range of the two cupolas charted on the southern end of Cobb Island drawn across Sand Shoal Inlet.

(h) Except as provided elsewhere in this section from Cape Henlopen to Cape Charles, lines drawn parallel with the general trend of the highwater shoreline across the entrances to small bays and inlets.

§ 82.510 Chesapeake Bay Entrance, VA.

A line drawn from Cape Charles Light to Cape Henry Light.

§ 82.515 Cape Henry, VA to Cape Hatteras, NC.

(a) A line drawn from Rudee Inlet Jetty Light 2 to Rudee Inlet Jetty Light 1.

(b) A line formed by the centerline of the highway bridge across Oregon Inlet.

§ 82.520 Cape Hatteras, NC to Cape Lookout, NC.

(a) A line drawn from Hatteras Inlet Light 255° true to the eastern end of Ocracoke Island.

(b) A line drawn from the westernmost extremity of Ocracoke Island at latitude 35°04.0′ N. longitude 76°00.8′ W. to the northeastern extremity of Portsmouth Island at latitude 35°03.7′ N. longitude 76°02.3′ W.

(c) A line drawn across Drum Inlet parallel with the general trend of the highwater shoreline.

§ 82.525 Cape Lookout, NC to Cape Fear, NC.

(a) A line drawn from Cape Lookout Light to the seaward tangent of the southeastern end of Shackleford Banks.

(b) A line drawn from Morehead City Channel Range Front Light to the seaward extremity of the Beaufort Inlet west jetty.

(c) A line drawn from the southernmost extremity of Bogue Banks at latitude 34°38.7′ N. longitude 77°06.0′ W. across Bogue Inlet to the northernmost extremity of Bear Beach at latitude 34°38.5′ N. longitude 77°07.1′ W.

(d) A line drawn from the tower charted in approximate position latitude 34°31.5′ N. longitude 77°20.8′ W. to the seaward tangent of the shoreline on the northeast side of New River Inlet.

(e) A line drawn across New Topsail Inlet between the closest extremities of the shore on either side of the inlet from latitude 34°20.8′ N. longitude 77°39.2′ W. to latitude 34°20.6′ N. longitude 77°39.6′ W.

(f) A line drawn from the seaward extremity of the jetty on the northeast side of Masonboro Inlet west to the shoreline approximately 0.6 mile southwest of the inlet.

(g) Except as provided elsewhere in this section from Cape Lookout to Cape Fear, lines drawn parallel with the general trend of the highwater shoreline across the entrance of small bays and inlets.

§ 82.530 Cape Fear, NC to Little River Inlet, NC.

(a) A line drawn from the abandoned lighthouse charted in approximate position latitude 33°52.4′ N. longitude 78°00.1′ W. across the Cape Fear River Entrance to Oak Island Light.

(b) Except as provided elsewhere in this section from Cape Fear to Little River Inlet, lines drawn parallel with the general trend of the highwater shoreline across the entrance to small inlets.

SEVENTH DISTRICT

§ 82.703 Little River Inlet, SC to Cape Romain, SC.

(a) A line drawn from the westernmost extremity of the sand spit on Bird Island to the easternmost extremity of Waties Island across Little River Inlet.

(b) Lines drawn parallel with the general trend of the highwater shoreline across Hog Inlet, Murrels Inlet, Midway Inlet, Pawleys Inlet, and North Inlet.

(c) A line drawn from the charted position of Winyah Bay North Jetty End Buoy 2N south to the Winyah Bay South Jetty.

(d) A line drawn from Santee Point to the seaward tangent of Cedar Island.

(e) A line drawn from Cedar Island Point west to Murphy Island.

(f) A north-south line (longitude 79° 20.3′ W.) drawn from Murphy Island to the northernmost extremity of Cape Island Point.

§ 82.707 Cape Romain, SC to Sullivans Island, SC.

(a) A line drawn from the western extremity of Cape Romain 292° true to Racoon Key on the west side of Racoon Creek.

(b) A line drawn from the westernmost extremity of Sandy Point across Bull Bay to the northernmost extremity of Northeast Point.

(c) A line drawn from the southernmost extremity of Bull Island to the easternmost extremity of Capers Island.

(d) A line formed by the overhead power cable from Capers Island to Dewees Island.

(e) A line formed by the overhead power cable from Dewees Island to Isle of Palms.

(f) A line formed by the centerline of the highway bridge between Isle of Palms and Sullivans Island over Breach Inlet.

§ 82.710 Charleston Harbor, SC.

(a) A line formed by the submerged north jetty from the shore to the west end of the north jetty.

(b) A line drawn from across the seaward extremity of the Charleston Harbor Jetties.

(c) A line drawn from the west end of the South Jetty across the South Entrance to Charleston Harbor to shore on a line formed by the submerged south jetty.

§ 82.712 Morris Island, SC to Hilton Head Island, SC.

(a) A line drawn from the Folly Island Loran Tower charted in approximate position latitude 32°41.0′ W. longitude 79°53.2′ W. to the abandoned lighthouse tower on the northside of Lighthouse Inlet; thence west to the shoreline of Morris Island.

(b) A straight line drawn from the seaward tangent of Folly Island through Folly River Daybeacon 10 across Stono River to the shoreline of Sandy Point.

(c) A line drawn from the southernmost extremity of Seabrook Island 257° true across the North Edisto River Entrance to the shore of Botany Bay Island.

(d) A line drawn from the microwave antenna tower on Edisto Beach charted in approximate position latitude 32°29.3′ N. longitude 80°19.2′ W. across St. Helena Sound to the abandoned lighthouse tower on Hunting Island.

(e) A line formed by the centerline of the highway bridge between Hunting Island and Fripp Island.

(f) A line drawn from the westernmost extremity of Bull Point on Capers Island to Port Royal Sound Channel Rear Range Light; thence 245° true to the easternmost extremity of Hilton Head at latitude 32°13.2′ N. longitude 80°40.1′ W.

§ 82.715 Savannah River.

A line drawn from the southernmost tank on Hilton Head Island charted in approximate position latitude 32°06.7′ N.

longitude 80°49.3′ W. to Bloody Point Range Rear Light; thence to Tybee (Range Rear) Light.

§ 82.717 Tybee Island, GA to St. Simons Island, GA.

(a) A line drawn from the southernmost extremity of Savannah Beach on Tybee Island 255° true across Tybee Inlet to the shore of Little Tybee Island south of the entrance to Buck Hammock Creek.

(b) A straight line drawn from the northeasternmost extremity of Wassaw Island 031° true through Tybee River Daybeacon 1 to the shore of Little Tybee Island.

(c) A line drawn approximately parallel with the general trend of the high-water shorelines from the seaward tangent of Wassau Island to the seaward tangent of Bradley Point on Ossabaw Island.

(d) A north-south line (longitude 81°8.4′ W.) drawn from the southernmost extremity of Ossabaw Island to St. Catherine Island.

(e) A north-south line (longitude) 81°10.6′ W.) drawn from the southernmost extremity of St. Catherines Island to Northeast Point on Blackbeard Island.

(f) A line following the general trend of the seaward highwater shoreline across Cabretta Inlet.

(g) A north-south line (longitude 81°16.9′ W.) drawn from the southwesternmost point on Sapelo Island to Wolf Island.

(h) A north-south line (longitude 81°17.1′ W.) drawn from the southeasternmost point of Wolf Island to the northeasternmost point on Little St. Simons Island.

(i) A line drawn from the northeastern extremity of Sea Island 045° true to Little St. Simons Island.

(j) An east-west line from the southernmost extremity of Sea Island across Goulds Inlet to St. Simons Island.

§ 82.720 St. Simons Island, GA to Amelia Island, FL.

(a) A line drawn from St. Simons Light to the northernmost tank on Jekyll Island charted in approximate position latitude 31°05.9′ N. longitude 81°24.5′ W.

(b) A line drawn from the southernmost tank on Jekyll Island charted in approximate position latitude 31°01.6′ N. longitude 81°25.2′ W. to coordinate latitude 30°59.4′ N. longitude 81°23.7′ W. (0.5 nautical mile east of the charted position of St. Andrew Sound Lighted Buoy 32); thence to the abandoned lighthouse tower on the north end of Little Cumberland Island charted in approximate position latitude 30°58.5′ N. longitude 81°24.8′ W.

(c) A line drawn across the seaward extremity of the St. Marys River Entrance Jetties.

§ 82.723 Amelia Island, FL to Cape Canaveral, FL.

(a) A line drawn from the southernmost extremity of Amelia Island to the northeasternmost extremity of Little Talbot Island.

(b) A line formed by the centerline of the highway bridge from Little Talbot Island to Fort George Island.

(c) A line drawn across the seaward extremity of the St. Johns River Entrance Jetties.

(d) A line drawn across the seaward extremity of the St. Augustine Inlet Jetties.

(e) A line formed by the centerline of the highway bridge over Matanzas Inlet.

(f) A line drawn across the seaward extremity of the Ponce de Leon Inlet Jetties.

§ 82.727 Cape Canaveral, FL to Miami Beach, FL.

(a) A line drawn across the seaward extremity of the Port Canaveral Entrance Channel Jetties.

(b) A line drawn across the seaward extremity of the Sebastian Inlet Jetties.

(c) A line drawn across the seaward extremity of the Fort Pierce Inlet Jetties.

(d) A north-south line (longitude 80°09.8′ W.) drawn across St. Lucie Inlet through St. Lucie Inlet Entrance Range Front Daybeacon.

(e) A line drawn from the seaward extremity of Jupiter Inlet North Jetty to the northeast extremity of the concrete apron on the south side of Jupiter Inlet.

(f) A line drawn across the seaward extremity of the Lake Worth Inlet Jetties.

(g) A line drawn across the seaward extremity of the South Lake Worth Inlet Jetties.

(h) A line drawn from Boca Raton Inlet North Jetty Light 2 to Boca Raton Inlet South Jetty Light 1.

(i) A line drawn from Hillsboro Inlet Light to Hillsboro Inlet Entrance Light 2; thence to Hillsboro Inlet Entrance Light 1; thence west to the shoreline.

(j) A line drawn across the seaward extremity of the Port Everglades Entrance Jetties.

(k) A line formed by the centerline of the highway bridge over Bakers Haulover Inlet.

§ 82.730 Miami Harbor, FL.

A line drawn across the seaward extremity of the Miami Harbor Government Cut Jetties.

§ 82.735 Miami, FL to Long Key, FL.

(a) A line drawn from the southernmost extremity of Fisher Island 211° true to the point latitude 25°45.1′ N. longitude 80°08.6′ W. on Virginia Key.

(b) A line formed by the centerline of the highway bridge between Virginia Key and Key Biscayne.

(c) A line drawn from the abandoned lighthouse tower on Cape Florida to Biscayne Channel Light 8; thence to the northernmost extremity on Soldier Key.

(d) A line drawn from the southernmost extremity on Soldier Key to the northernmost extremity of the Ragged Keys.

(e) A line drawn from the Ragged Keys to the southernmost extremity of Angelfish Key following the general trend of the seaward shoreline.

(f) A line drawn on the centerline of the Overseas Highway (U.S. 1) and bridges from latitude 25°19.3′ N. longitude 80°16.0′ W. at Little Angelfish Creek to the radar dome charted on Long Key at approximate position latitude 24°49.3′ W. longitude 80°49.2′ W.

PUERTO RICO AND VIRGIN ISLANDS

SEVENTH DISTRICT

§ 82.738 Puerto Rico and Virgin Islands.

(a) Except inside lines specifically described in this section, the 72 COLREGS shall apply on all other bays, harbors and lagoons of Puerto Rico and the U.S. Virgin Islands.

(b) A line drawn from Puerto San Juan Light to Cabras Light across the entrance of San Juan Harbor.

GULF COAST

SEVENTH DISTRICT

§ 82.740 Long Key, FL to Cape Sable, FL.

A line drawn from the radar dome charted on Long Key at approximate position latitude 24°49.3′ N. longitude 80°49.2′ W. to Long Key Light 1; thence to Arsenic Bank Light 1; thence to Arsenic Bank Light 2; thence to Sprigger Bank Light 5; thence to Schooner Bank Light 6; thence to Oxfoot Bank Light 10; thence to East Cape Light 2; thence through East Cape Daybeacon 1A to the shoreline at East Cape.

§ 82.745 Cape Sable, FL to Cape Romano, FL.

(a) A line drawn following the general trend of the mainland, highwater shoreline from Cape Sable at East Cape to Little Shark River Light 1; thence to westernmost extremity of Shark Point; thence following the general trend of the mainland, highwater shoreline crossing the entrances of Harney River, Broad Creek, Broad River, Rodgers River First Bay, Chatham River, Huston River, to the shoreline at coordinate latitude 25°41.8′ N. longitude 18°17.9′ W.

(b) The 72 COLREGS shall apply to the waters surrounding the Ten Thousand Islands and the bays, creeks, inlets, and rivers between Chatham Bend and Marco Island except inside lines specifically described in this part.

(c) A north-south line drawn at longitude 81°20.2′ W. across the entrance to Lopez River.

(d) A line drawn across the entrance to Turner River parallel to the general trend of the shoreline.

(e) A line formed by the centerline of Highway 92 Bridge at Goodland.

§ 82.748 Cape Romano, FL to Sanibel Island, FL.

(a) Lines drawn across Big Marco Pass parallel to the general trend of the seaward, highwater shoreline.

(b) A line drawn through Capri Pass Daybeacons 2A and 3 across Capri Pass.

(c) Lines drawn across Hurricane and Little Marco Passes parallel to the general trend of the seaward, highwater shoreline.

(d) A straight line drawn from Gordon Pass Light 4 through Daybeacon 5 to the shore.

(e) A line drawn across the seaward extremity of Doctors Pass Jetties.

(f) Lines drawn across Wiggins, Big Hickory, New, and Big Carlos Passes parallel to the general trend of the seaward, highwater shoreline.

(g) A straight line drawn from Sanibel Island Light through Matanzas Pass Channel Light 2 to the shore of Estero Island.

§ 82.750 Sanibel Island, FL to St. Petersburg, FL.

(a) Lines drawn across Redfish and Captiva Passes parallel to the general trend of the seaward, highwater shorelines.

(b) A line drawn from La Costa Test Pile North Light to Port Boca Grande Light.

(c) Lines drawn across Gasparilla and Stump Passes parallel to the general trend of the seaward, highwater shorelines.

(d) A line across the seaward extremity of Venice Inlet Jetties.

(e) A line drawn across Midnight Pass parallel to the general trend of the seaward, highwater shoreline.

(f) A line drawn from Big Sarasota Pass Light 14 to the southernmost extremity of Lido Key.

(g) A line drawn through Sarasota Bay Channel Light 7A across New Pass parallel to the seaward, highwater shoreline of Longboat Key.

(h) A line drawn across Longboat Pass parallel to the seaward, highwater shoreline.

(i) A line drawn from the northwesternmost extremity of Bean Point to the southeasternmost extremity of Egmont Key.

(j) A straight line drawn from Egmont Key Light through Egmont Channel Range Rear Light to the shoreline on Mullet Key.

(k) A line drawn from the northernmost extremity of Mullet Key across Bunces Pass and South Channel to Pass-a-Grille Light 8; thence to Pass-a-Grille Daybeacon 9; thence to the southwesternmost extremity of Long Key.

§ 82.753 St. Petersburg, FL to the Anclote, FL.

(a) A line drawn across Blind Pass parallel with the general trend of the seaward, highwater shoreline.

(b) Lines formed by the centerline of the highway bridges over Johns and Clearwater Passes.

(c) A line drawn across Dunedin and Hurricane Passes parallel with the general trend of the seaward, highwater shoreline.

(d) A line drawn from the northernmost extremity of Honeymoon Island to Anclote Anchorage South Entrance Light 7; thence to Anclote Keys Light; thence a straight line through Anclote River Cut B Range Rear Light to the shoreline.

§ 82.755 Anclote, FL to the Suncoast Keys, FL.

(a) Except inside lines specifically described in this section, the 72 COLREGS shall apply on the bays, bayous, creeks, marinas, and rivers from Anclote to the Suncoast Keys.

(b) A north-south line drawn at longitude 82°38.3′ W. across the Chassahowitzka River Entrance.

§ 82.757 Suncoast Keys, FL to Horseshoe Point, FL.

(a) Except inside lines specifically described in this section, the 72 COLREGS shall apply on the bays, bayous, creeks, and marinas from the Suncoast Keys to Horseshoe Point.

(b) A line formed by the centerline of Highway 44 Bridge over the Salt River.

(c) A north-south line drawn through Crystal River Entrance Daybeacon 25 across the river entrance.

(d) A north-south line drawn through the Cross Florida Barge Canal Daybeacon 38 across the canal.

(e) A north-south line drawn through Withlacoochee River Daybeacon 40 across the river.

(f) A line drawn from the westernmost extremity of South Point north to the shoreline across the Waccasassa River Entrance.

(g) A line drawn from position latitude 29°16.6′ N. longitude 83°06.7′ W. 300° true to the shoreline of Hog Island.

(h) A north-south line drawn through Suwannee River West Pass Daybeacons 27 and 28 across the Suwannee River.

§ 82.760 Horseshoe Point, FL to Rock Islands, FL.

(a) Except inside lines specifically described provided in this section, the 72 COLREGS shall apply on the bays, bayous, creeks, marinas, and rivers from Horseshoe Point to the Rock Islands.

(b) A north-south line drawn through Steinhatchee River Light 21.

(c) A line drawn from Fenholloway River Approach Light FR east across the entrance to Fenholloway River.

EIGHTH DISTRICT

§ 82.805 Rock Island, FL to Cape San Blas, FL.

(a) A south-north line drawn from the Econfina River Light to the opposite shore.

(b) A line drawn from Gamble Point Light to the southernmost extremity of Cabell Point.

(c) A line drawn from St. Marks (Range Rear) Light to St. Marks Channel Light 11; thence to the southernmost extremity of live Oak Point; thence through Shell Point Light to the southernmost extremity of Ochlockonee Point; thence to Bald Point.

(d) A line drawn from the south shore of Southwest Cape at longitude 84°22.7′ W. to Dog Island Reef East Light 1; thence to Turkey Point Light 2; thence to the easternmost extremity of Dog Island.

(e) A line drawn from the westernmost extremity of Dog Island to the easternmost extremity of St. George Island.

(f) A line drawn across the seaward extremity of the St. George Island Channel Jetties.

(g) A line drawn from the northwesternmost extremity of Sand Island to West Pass Light 7.

(h) A line drawn from the westernmost extremity of St. Vincent Island to the southeast, highwater shoreline of Indian Peninsula at longitude 85°13.5′ W.

§ 82.810 Cape San Blas, FL to Perdido Bay, FL.

(a) A line drawn from St. Joseph Range A Rear Light through St. Joseph Range B Front Light to St. Joseph Point.

(b) A line drawn across the mouth of Salt Creek as an extension of the general trend of the shoreline.

(c) A line drawn from the northernmost extremity of Crooked Island 000° T. to the mainland.

(d) A line drawn from the easternmost extremity of Shell Island 120° true to the shoreline across the east entrance to St. Andrews Bay.

(e) A line drawn between the seaward end of the St. Andrews Bay Entrance Jetties.

(f) A line drawn between the seaward end of the Choctawhatchee Bay Entrance Jetties.

(g) A west-east line drawn from Fort McGee Leading Light across the Pensacola Bay Entrance.

(h) A line drawn between the seaward end of the Perdido Pass Jetties.

§ 82.815 Mobile Bay, AL to the Chandeleur Islands, LA.

(a) A line drawn across the inlets to Little Lagoon as an extension of the general trend of the shoreline.

(b) A line drawn from Mobile Point Light to Dauphin Island Spit Light to the eastern corner of Fort Gaines at Pelican Point.

(c) A line drawn from the westernmost extremity of Dauphin Island to the easternmost extremity of Petit Bois Island.

(d) A line drawn from Horn Island Pass Entrance Range Front Light on Petit Bois Island to the easternmost extremity of Horn Island.

(e) An east-west line (latitude 30°14.7′ N.) drawn between the westernmost extremity of Horn Island to the easternmost extremity of Ship Island.

(f) A curved line drawn following the general trend of the seaward, highwater shoreline of Ship Island.

(g) A line drawn from Ship Island Light; thence to Chandeleur Light; thence in a curved line following the general trend of the seaward, highwater shorelines of the Chandeleur Islands to the island at coordinate latitude 29°31.1′ N. longitude 89°05.7′ W.; thence to Brenton Island Light located at latitude 29°29.1′ N. longitude 89°09.7′ W.

§ 82.820 **Mississippi River.**

The Pilot Rules for Western Rivers are to be followed in the Mississippi River and its tributaries above the Huey P. Long Bridge.

§ 82.825 **Mississippi Passes, LA.**

(a) A line drawn from Breton Island Light to coordinate latitude 29°21.5′ N. longitude 89°11.7′ W.

(b) A line drawn from coordinate latitude 29°21.5′ N. longitude 89°11.7′ W. following the general trend of the seaward, highwater shoreline in a southeasterly direction to coordinate latitude 29°12.4′ N. longitude 89°06.0′ W.; thence following the general trend of the seaward, highwater shoreline in a northeasterly direction to coordinate latitude 29°13.0′ N. longitude 89°01.3′ W. located on the northwest bank of North Pass.

(c) A line drawn from coordinate latitude 29°13.0′ N. longitude 89°01.3′ W. to coordinate latitude 29°12.7′ N. longitude 89°0.9′ W.; thence coordinate latitude 29°10.6′ N. longitude 88°59.8′ W.; thence coordinate latitude 29°03.5′ N. longitude 89°03.7′ W., thence Mississippi River South Pass East Jetty Light 4.

(d) A line drawn from Mississippi River South Pass East Jetty Light 4 to Mississippi River South Pass West Jetty Light; thence following the general trend of the seaward highwater shoreline in a northwesterly direction to coordinate latitude 29°03.4′ N. longitude 89°13.0′ W.; thence west to coordinate latitude 29°03.5′ N., longitude 89°15.5′ W., thence following the general trend of the seaward, highwater shoreline in a southwesterly direction to Mississippi River Southwest Pass Entrance Light.

(e) A line drawn from Mississippi River Southwest Pass Entrance Light; thence to the seaward extremity of the Southwest Pass West Jetty located at coordinate latitude 28°54.5′ N. longitude 89°26.1′ W.

§ 82.830 **Mississippi Passes, LA to Point Au Fer, LA.**

(a) A line drawn from the seaward extremity of the Southwest Pass West Jetty located at coordinate latitude 28°54.5′ N. longitude 89°26.1′ W.; thence following the general trend of the seaward, highwater jetty and shoreline in a north, northeasterly direction to Old Tower latitude 28°58.8′ N. longitude 89°23.3′ W.; thence to West Bay Light; thence to coordinate latitude 29°05.2′ N. longitude 89°24.3′ W.; thence a curved line following the general trend of the highwater shoreline to Point Aur Fer Island except as otherwise described in this section.

(b) A line drawn across the seaward extremity of the Empire Waterway (Bayou Fontanelle) entrance jetties.

(c) A line drawn from Barataria Bay Light to the Grand Isle Fishing Jetty Light.

(d) A line drawn between the seaward extremity of the Belle Pass Jetties.

(e) A line drawn from the westernmost extremity of the Timbolier Island to the easternmost extremity of Isles Dernieres.

(f) A south-north line drawn from Caillou Bay Light 13 across Caillou Boca.

(g) A line drawn 107° true from Caillou Bay Boat Landing Light across the entrances to Grand Bayou du Large and Bayou Grand Caillou.

(h) A line drawn on an axis of 103° true through Taylors Bayou Light across the entrances to Jack Stout Bayou, Taylors Bayou, Pelican Pass, and Bayou de West.

§ 82.835 **Point Au Fer, LA to Calcasieu Pass, LA.**

(a) A line drawn from Point Au Fer to Atchafalaya Channel Light 32; thence Point Au Fer Reef Light; Atchafalaya Bay Pipeline Light D latitude 29°25.0′ N. longitude 91°31.7′ W.; thence Atchafalaya Bay Light 1 latitude 29°25.3′ N. longitude 91°35.8′ W.; thence South Point.

(b) Lines following the general trend of the highwater shoreline drawn across the bayou canal inlet from the Gulf of Mexico between South Point and Calcasieu Pass except as otherwise described in this section.

(c) A line drawn on an axis of 130° T. through Vermillion Bay Light 2 across Southwest Pass.

(d) A line drawn across the seaward extremity of the Freshwater Bayou Canal Entrance Jetties.

(e) A line drawn from Mermentau River Channel Light 4 to Mermentau River Channel Light 5.

(f) A line drawn from the radio tower charted in approximate positon latitude 29°45.7′ N. longitude 93°06.3′ W., 160° true across Mermentau Pass.

(g) A line drawn across the seaward extremity of the Calcasieu Pass Jetties.

§ 82.840 **Sabine Pass, TX to Galveston, TX.**

(a) A line drawn from the Sabine Pass East Jetty Light to the seaward end of the Sabine Pass West Jetty.

(b) Lines drawn across the small boat passes through the Sabine Pass East and West Jetties.

(c) A line formed by the centerline of the highway bridge over Rollover Pass at Gilchrist.

§ 82.845 **Galveston, TX to Freeport, TX.**

(a) A line drawn from Galveston North Jetty Light to Galveston South Jetty Light.

(b) A line formed by the centerline of the highway bridge over San Luis Pass.

(c) Lines formed by the centerlines of the highway bridges over the inlets to Christmas Bay (Cedar Cut) and Drum Bay.

(d) A line drawn from the seaward extremity of the Freeport North Jetty to Freeport Entrance Light 6; thence Freeport Entrance Light 7; thence the seaward extremity of Freeport South Jetty.

§ 82.850 **Brazos River, TX to the Rio Grande, TX.**

(a) Except as otherwise described in this section lines drawn continuing the general trend of the seaward, highwater shorelines across the inlets to Brazos River Diversion Channel, San Bernard River, Cedar Lakes, Brown Cedar Cut, Colorado River, Matagorda Bay Cedar Bayou, Corpus Christi Bay, and Laguna Madre.

(b) A line drawn across the seaward extremity of Matagorda Ship Channel North Jetties.

(c) A line drawn from the seaward tangent of Matagorda Peninsula at Decros Point to Matagorda Daybeacon 2; thence to Matagorda Light.

(d) A line drawn across the seaward extremity of the Aransas Pass Jetties.

(e) A line drawn across the seaward extremity of the Port Mansfield Entrance Jetties.

(f) A line drawn across the seaward extremity of the Brazos Santiago Pass Jetties.

PACIFIC COAST

ELEVENTH DISTRICT

§ 82.1105 **Santa Catalina Island, CA.**

The 72 COLREGS shall apply to the harbors on Santa Catalina Island.

§ 82.1110 **San Diego Harbor, CA.**

A line drawn from Zunica Jetty Light "Y" to Zunica Jetty Light "Z"; thence to Point Loma Light.

§ 82.1115 **Mission Bay, CA.**

A line drawn drawn from Mission Bay South Jetty Light 2 to Mission Bay North Jetty Light 1.

§ 82.1120 **Oceanside Harbor, CA.**

A line drawn from Oceanside South Jetty Light 4 to Oceanside Breakwater Light 3.

§ 82.1125 **Dana Point Harbor, CA.**

A line drawn from Dana Point Jetty Light 6 to Dana Point Breakwater Light 5.

§ 82.1130 **Newport Bay, CA.**

A line drawn from Newport Bay East Jetty Light 4 to Newport Bay West Jetty Light 3.

§ 82.1135 **San Pedro Bay—Anaheim Bay, CA.**

(a) A line drawn from Anaheim Bay East Jetty Light 6 to Anaheim Bay West Jetty Light 5; thence to Long Beach Breakwater East End Light.

(b) A line drawn from Long Beach Channel Entrance Light 2 to Long Beach Light.

(c) A line drawn from Los Angeles Main Entrance Channel Light 2 to Los Angeles Light.

§ 82.1140 **Redondo Harbor, CA.**

A line drawn from Redondo Beach East Jetty Light 2 to Redondo Beach West Jetty Light 3.

§ 82.1145 **Marina Del Rey, CA.**

(a) A line drawn from Marina Del Ray Breakwater South Light 1 to Marina Del Rey Light 4.

(b) A line drawn from Marina Del Rey Breakwater North Light 2 to Marina Del Rey Light 3.

(c) A line drawn from Marina Del Rey Light 4 to the seaward extremity of the Ballona Creek South Jetty.

§ 82.1150 Port Hueneme, CA.

A line drawn from Port Hueneme East Jetty Light 4 to Port Hueneme West Jetty Light 3.

§ 82.1155 Channel Islands Harbor, CA.

(a) A line drawn from Channel Islands Harbor South Jetty Light 2 to Channel Islands Harbor Breakwater South Light 1.

(b) A line drawn from Channel Islands Harbor Breakwater North Light to Channel Islands Harbor North Jetty Light 5.

§ 82.1160 Ventura Marina, CA.

A line drawn from Ventura Marina South Jetty Light 2 to Ventura Marina Breakwater South Light 1; thence to Ventura Marina North Jetty Light 3.

§ 82.1165 Santa Barbara Harbor, CA.

A line drawn from Santa Barbara Harbor Light 4 to Santa Barbara Harbor Breakwater Light.

TWELFTH DISTRICT

§ 82.1205 San Luis Obispo Bay, CA.

A line drawn from the southernmost extremity of Fossil Point to the seaward extremity of Whaler Island Breakwater.

§ 82.1210 Estero-Morro Bay, CA.

A line drawn from the seaward extremity of the Morro Bay East Breakwater to the Morro Bay West Breakwater Light.

§ 82.1215 Monterey Harbor, CA.

A line drawn from Monterey Harbor Light 6 to the northern extremity of Monterey Municipal Wharf 2.

§ 82.1220 Moss Landing Harbor, CA.

A line drawn from the seaward extremity of the pier located 0.3 mile south of Moss Landing Harbor Entrance to the seaward extremity of the Moss Landing Harbor North Breakwater.

§ 82.1225 Santa Cruz Harbor, CA.

A line drawn from the seaward extremity of the Santa Cruz Harbor East Breakwater to Santa Cruz Harbor West Breakwater Light; thence to Santa Cruz Light.

§ 82.1230 Pillar Point Harbor, CA.

A line drawn from Pillar Point Harbor Light 6 to Pillar Point Harbor Light 5.

§ 82.1250 San Francisco Harbor, CA.

A straight line drawn from Point Bonita Light through Mile Rocks Light to the shore.

§ 82.1255 Bodega and Tomales Bay, CA.

(a) An east-west line drawn through Tomales Bay Daybeacon 3 from Sand Point to Avalis Beach.

(b) A line drawn from the seaward extremity of Bodega Harbor North Breakwater to Bodega Harbor Entrance Light 1.

§ 82.1260 Albion River, CA.

A line drawn on an axis of 030° true through Albion River Light 1 across Albion Cove.

§ 82.1265 Noyo River, CA.

A line drawn from Noyo River Entrance Daybeacon 4 to Noyo River Entrance Light 5.

§ 82.1270 Arcata-Humboldt Bay, CA.

A line drawn from Humboldt Bay Entrance Light 4 to Humboldt Bay Entrance Light 3.

§ 82.1275 Crescent City Harbor, CA.

A line drawn from Crescent City Outer Breakwater Light to the southeasternmost extremity of Whaler Island.

THIRTEENTH DISTRICT

§ 82.1305 Chetco River, OR.

A line drawn from the seaward extremity of the Chetco Rive South Jetty to Chetco River Entrance Light 5.

§ 82.1310 Rogue River, OR.

A line drawn from the seaward extremity of the Rogue River Entrance South Jetty to Rogue River North Jetty Light 3.

§ 82.1315 Coquille River, OR.

A line drawn across the seaward extremity of the Coquille River Entrance Jetties.

§ 82.1320 Coos Bay, OR.

A line drawn across the seaward extremity of the Coos Bay Entrance Jetties.

§ 82.1325 Umpqua River, OR.

A line drawn across the seaward extremity of the Umpqua River Entrance Jetties.

§ 82.1330 Siuslaw River, OR.

A line drawn from the seaward extremity of the Siuslaw River Entrance South Jetty to Siuslaw River Light 9.

§ 82.1335 Alsea Bay, OR.

A line drawn from the seaward shoreline on the north of the Alsea Bay Entrance 165° true across the channel entrance.

§ 82.1340 Yaquina Bay, OR.

A line drawn from the seaward extremity of Yaquina Bay Entrance South Jetty to Yaquina Bay North Jetty Light 5.

§ 82.1345 Depoe Bay, OR.

A line drawn across the Depoe Bay Channel entrance parallel with the general trend of the highwater shoreline.

§ 82.1350 Netarts Bay, OR.

A line drawn from the northernmost extremity of the shore on the south side of Netarts Bay north to the opposite shoreline.

§ 82.1355 Tillamook Bay, OR.

A north-south line drawn from the lookout tower charted on the north side of the entrance to Tillamook Bay south to the Tillamook Bay South Jetty.

§ 82.1360 Nehalem River, OR.

A line drawn approximately parallel with the general trend of the highwater shoreline across the Nehalem River Entrance.

§ 82.1365 Columbia River Entrance, OR/WA.

A line drawn from the seaward extremity of the Columbia River North Jetty (above water) 155° true to the seaward extremity of the Columbia River South Jetty (above water).

§ 82.1370 Willapa Bay, WA.

A line drawn from Willapa Bay Light 171° true to the westernmost tripod charted 1.6 miles south of Leadbetter Point.

§ 82.1375 Grays Harbor, WA.

A line drawn from across the seaward extremity (above water) of the Grays Harbor Entrance Jetties.

§ 82.1380 Quillayute River, WA.

A line drawn from the seaward extremity of the Quillayute River Entrance East Jetty to the overhead power cable tower charted on James Island; thence a straight line through Quillayute River Entrance Light 3 to the shoreline.

§ 82.1385 Strait of Juan de Fuca.

(a) The 72 COLREGS shall apply on Neah Bay and the waters inside Ediz Hook (Port) Angeles Harbor).

(b) A line drawn from New Dungeness Light through Puget Sound Traffic Lane Entrance Lighted Buoy S to Rosario Strait Traffic Lane Entrance Lighted Horn Buoy R; through Hein Bank Lighted Bell Buoy to Cattle Point Light.

§ 82.1390 Haro Strait and Strait of Georgia.

(a) The 72 COLREGS shall apply on the bays of the southwest coast of San Juan Island from Cattle Point Light to Lime Kiln Light.

(b) A line drawn from Lime Kiln Light to Kellett Bluff Light; thence to Turn Point Light; thence to Skipjack Island Light; thence to Sucia Island Daybeacon 1.

(c) A line drawn from the shoreline of Sucia Island at latitude 48°46.1′ N. longitude 122°53.5′ W. through Clements Reef Buoy 2 to Alden Bank Lighted Gong Buoy A; thence to the westernmost tip of Birch Point at latitude 48°56.6′ N. longitude 122°49.2′ W.

(d) The 72 COLREGS shall apply in Semiamoo Bay and Drayton Harbor.

PACIFIC ISLANDS

FOURTEENTH DISTRICT

§ 82.1410 Hawaiian Island Exemption from General Rule.

Except as provided elsewhere in this part for Mamala Bay and Kaneohe Bay on Oahu; Port Allen and Nawiliwili Bay on Kauai; Kahului Harbor on Maui; and Kawaihae and Hilo Harbors on Hawaii, the 72 COLREGS shall apply on all

other bays, harbors, and lagoons of the Hawaiian Island (including Midway).

§ 82.1420 Mamala Bay, Oahu, HI.

A line drawn from Barbers Point Light to Diamond Head Light.

§ 82.1430 Kaneohe Bay, Oahu, HI.

A straight line drawn from Pyramid Rock Light across Kaneohe Bay through the center of Mokolii Island to the shoreline.

§ 82.1440 Port Allen, Kauai, HI.

A line drawn from Hanapep Light to Hanapepe Bay Breakwater Light.

§ 82.1450 Nawiliwili Harbor, Kauai, HI.

A line drawn from Nawiliwili Harbor Breakwater Light to Kukii Point Light.

§ 82.1460 Kahului Harbor, Maui, HI.

A line drawn from Kahului Harbor Entrance East Breakwater Light to Kahului Harbor Entrance West Breakwater Light.

§ 82.1470 Kawaihae Harbor, Hawaii, HI.

A light drawn from Kawaihae Light to the seaward extremity of the Kawaihae South Breakwater.

§ 82.1480 Hilo Harbor, Hawaii, HI.

A line drawn from the seaward extremity of the Hilo Breakwater 265° true (as an extension of the seaward side of the breakwater) to the shoreline 0.2 nautical mile north of Alealea Point.

§ 82.1490 Apra Harbor, U.S. Territory of Guam.

A line drawn from the westernmost extremity of Orote Island to the westernmost extremity of Glass Breakwater.

§ 82.1495 U.S. Pacific Island Possessions.

The 72 COLREGS shall apply on the bays, harbors, lagoons, and waters surrounding the U.S. Pacific Island Possessions of American Soma, Baker, Canton, Howland, Jarvis, Johnson, Palmyra, Swains and Wake Island. (The Trust Territory of the Pacific Islands is not a U.S. possession, and therefore PART 82 does not apply thereto.)

ALASKA

SEVENTEENTH DISTRICT

§ 82.1705 Canadian (BC) and United States (AK) borders to Cape Muzon, AK.

(a) A line drawn from the northeasternmost extremity of Point Mansfield, Sitklan Island 040° true to the mainland.

(b) A line drawn from the southernmost extremity of Sitklan Island to the southernmost extremity of Garnet Point, Kanagumut Island.

(c) A line drawn from the westernmost extremity of Tingbeg Island to the southwesternmost extremity of Tongass Island.

(d) A line drawn from the northern shoreline of Tongass Island at longitude 130°44.6′ W. to Tongass Reef Daybeacon; thence to Boat Rock Light; thence to the shoreline.

(e) A line drawn from Tree Point Light to Barren Island Light; thence to Cape Chacon Light; thence to Cape Muzon Light.

§ 82.1710 Cape Muzon, AK to Cape Bartolome, AK.

(a) The 72 COLREGS shall apply on the harbors, and bays of the west coast of Dall Island from Cape Muzon to Cape Lookout.

(b) A line drawn from the westernmost extremity of Cape Lookout to Diver Islands Light; thence to the southernmost extremity of Cape Felix; thence to Cape Bartolome Light.

§ 82.1715 Cape Bartolome, AK to Cape Ulitka, AK.

A line drawn from the westernmost exteremity of Outer Point on Baker Island to the southernmost extremity of St. Nicholas Point on Noyes Island.

§ 82.1720 Cape Ulitka, AK to Cape Ommaney, AK.

(a) A line drawn from Cape Ulitka Light to the southwesternmost extremity of St. Joseph Island.

(b) A line drawn from south-north like (longitude 133°42.8′ W.) from the northernmost extremity of St. Joseph Island to the southernmost extremity of the Wood Islands.

(c) A line drawn from the northwesternmost extremity of Wood Island to Cape Lynch Light; thence to the southwesternmost extremity of Boot Point on Warren Island.

(d) A line drawn from the northwesternmost extremity of Point Borlase on Warren Island to the northeastern extremity of the Spanish Islands.

(e) A line drawn from Spanish Islands Light to Cape Decision Light; thence through Cape Ommaney Light to the shoreline.

(f) The 72 COLREGS shall apply on the bays and harbors of Coronation Island.

§ 82.1725 Cape Ommaney, AK to Cape Edgecumbe, AK.

(a) The 72 COLREGS shall apply on the bays, inlets, and harbors of the west coast of Barauof Island from Cape Ommaney to Cape Burunof.

(b) A line drawn from the westernmost extremity of Cape Burunof to Kulichkof Rock; thence to Vitskari Island Light; thence to the southeasternmost extremity of Shoals Point on Kruzof Island.

§ 82.1730 Cape Edgecumbe, AK, to Cape Spencer, AK.

(a) The 72 COLREGS shall apply on the bays and harbors of the south and west coasts of Kruzof Island from Shoals Point to Cape Georgiana.

(b) A line drawn from the northwesternmost extremity of Cape Georgiana on Kruzof Island to Klokachef Island Light.

(c) A line drawn from the northernmost extremity of Fortuna Point on Klokachef Island 055° true to the shoreline of Khaz Peninsula.

(d) The 72 COLREGS shall apply on the bays, inlets and harbors of the west coast of Chichogof Island from Fortuna Strait to Esther Island.

(e) A line drawn from Lisianski Strait Entrance Light to the southernmost extremity of Point Theodore on Yakobi Island.

(f) The 72 COLREGS shall apply on the bays and harbors of the west coast of Yakobi Island from Point Theodore to Soapstone Point.

(g) A line drawn from Lisianski Inlet Light to Cape Spencer Light; thence to the southernmost extremity of Cape Spencer.

§ 82.1735 Cape Spencer, AK to Point Whitshed, AK.

The 72 COLREGS shall apply on the bays and harbors from Cape Spencer to Point Whitshed on the coast of Alaska Mainland.

§ 82.1740 Prince William Sound, AK.

(a) Hawkins Island Cutoff: A line drawn from Point Whitshed on the Alaska Mainland at position 60°26.7′ N. 145°52.7′ W. west-south-westerly to Point Bentinck aero-beacon on Hinchinbrook Island.

(b) Hinchinbrook Entrance: A line drawn from Cape Hinchinbrook Light northerly to Schooner Rock Light.

(c) Montague Strait: A line drawn from a point on the western end of Montague Island at position 59°50.2′ N. 147°54.4′ W. northwesterly to Point Elrington Light on Elrington Island thence due west to the Alaska Mainland at Cape Puget.

§ 82.1750 Alaska west and north of Prince William Sound.

The 72 COLREGS shall apply on the sounds, bays, inlets, and harbors of Alaska west of Cape Puget, Kodiak Island, Aleutian Islands, and the west and north coasts of Alaska.

(Rule 1, International Regulations for Preventing Collisions at Sea, 1972 (as rectified); E.O. 11964; (14 U.S.C. 2); 49 CFR 1.46(b))

Dated: June 30, 1977.

E. L. PERRY,
Vice Admiral, U.S. Coast Guard,
Acting Commandant.

[FR Doc.77-19342 Filed 7-8-77;8:45 am]

[CGD 76-133]

INTERNATIONAL REGULATIONS FOR PREVENTING COLLISIONS AT SEA, 1972

Implementation and Interpretation

ACTION: Final rule.

AGENCY: Coast Guard, DOT.

SUMMARY: The amendments in this document implement and interpret the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS). The new international regulations will go into effect as law on and after July 15, 1977. The amendments in this document are needed by the public, and especially by mariners, to comply with the 72 COLREGS.

EFFECTIVE DATE: These amendments become effective on July 15, 1977.

FOR FURTHER INFORMATION CONTACT:

Captain George K. Greiner, Marine Safety Council (G-CMC/81), Room 8117, Department of Transportation, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590 (202-426-1477).

SUPPLEMENTAL INFORMATION: Certain regulations in Title 33, Code of Federal Regulations, concern the international "rules of the road" currently in effect. The current rules are the International Regulations for Preventing Collisions at Sea, 1960 (60 COLREGS) (16 UST 794, TIAS 5813), which are codified in 33 U.S.C. 1051-1094. The 60 COLREGS are being replaced by th e72 COLREGS.

The 72 COLREGS were recently adopted by an international convention and the United States deposited its Instrument of Acceptance on November 23, 1976. As proclaimed by the President on January 19, 1977, the convention will enter into force, as law, in the United States on and after July 15, 1977. As of that date, the 72 COLREGS apply to U.S. vessels on the high seas and to all vessels within the territorial sea of the United States to seaward of the Line of Demarcation, described in 33 CFR 82. As directed by Executive Order 11964 of January 19, 1977, the 72 COLREGS have been published in the March 31, 1977, issue of the FEDERAL REGISTER (42 FR 17112).

While most of the 72 COLREGS are simply revisions to the wording of the 60 COLREGS, there are several requirements in the 72 COLREGS that reflect changes in marine transportation technology that have occurred since the development of the 60 COLREGS. The interpretative rule in this document reflects a practice that has evolved since 1960. It interprets a provision that must be sufficiently explained so that the provision can be uniformly applied to all vessels.

Rule 24(b) addresses the lighting requirements for a pushing vessel and a vessel being pushed ahead rigidly connected in a composite unit. The concept of "composite unit" is new to the rules. The Coast Guard interprets this term to require those vessels to be connected rigidly by mechanical means other than lines or hawsers, wire or chain.

Section 3 of the Executive Order 11964 states that the Secretary of the Department in which the Coast Guard is operating is authorized to exempt, in accord with Rule 38 of the 72 COLREGS, any vessel or class of vessels, the keel of which is laid, or which is at a corresponding state of construction before July 15, 1977, from full compliance with the International Regulations provided that such vessel or class of vessels complies with the requirements of the 60 COLREGS. The Secretary of the Navy has been granted this authority to exempt vessels of the Navy. Notice of any exemptions granted is required to be published in the FEDERAL REGISTER. In order that the mariner not have to file for these exemptions for each vessel and in keeping with the Administration's policy of reducing the amount of governmental red tape, the Coast Guard has given the broadest interpretation to its authority, especially since it contains the phrase "class of vessel." Accordingly, Rule 38 is considered to extend to each vessel under the 72 COLREGS, except for vessels of the Navy, that has its keel laid or is at a corresponding stage of construction before July 12, 1977, and that complies with the requirements of the 60 COLREGS.

This document also contains editorial corrections to Subchapter DD necessitated by the amendments contained in this document.

Since these amendments are either editorial in nature, are interpretative rules, or concern a foreign affairs function of the United States, they are excepted from the rulemaking requirements in 5 U.S.C. 553 and may be made effective in less than 30 days.

DRAFTING INFORMATION

The principal persons involved in drafting these regulations are: Mr. Wiltems, and Mr. Stanley M. Colby, Project Office of Marine Environment and Systems, and Mr. Stanley M. Colby, Project Counsel, Office of the Chief Counsel.

Accordingly, Chapter I of Title 33, Code of Federal Regulations, is amended as follows:

PART 85—INTERPRETIVE RULINGS—INTERNATIONAL RULES [RESERVED]

1. Part 85 is revoked and reserved.

PART 87—72 COLREGS: IMPLEMENTING RULES

2. By revising the heading of Part 87 to read as set forth above.

§ 87.1 [Amended]

3. By striking the word "part" in the introductory language of § 87.1 and inserting the word "subchapter" in place thereof.

4. By grouping § 87.5 through § 87.17 under a center-head that reads as follows:

ALTERNATIVE COMPLIANCE

* * * * *

4. By adding § 87.20 under a center-head to read as follows:

EXEMPTIONS

§ 87.20 Lights and sound signal appliances.

Each vessel under the 72 COLREGS, except the vessels of the Navy, is exempt from the requirements of the 72 COLREGS to the limitation for the period of time stated in Rule 38 (a), (b), (c), (d), (e), (f), and (g) if—

(a) Her keel is laid or is at a corresponding stage of construction before July 15, 1977; and

(b) She meets the International Regulations for Preventing Collisions at Sea, 1960 (77 Stat. 194, 33 U.S.C. 1051-1094).

NOTE.—Appendix A of this subchapter contains the 72 COLREGS.

PART 88—72 COLREGS: INTERPRETATIVE RULES

5. By adding Part 88 to read as follows:

Sec.
88.1 Purpose.
88.3 Pushing vessel and vessel being pushed: Composite unit.

AUTHORITY: Convention on the International Regulations for Preventing Collisions at Sea, 1972 (as rectified); E.O. 11964; 49 CFR 1.46(b).

§ 88.1 Purpose.

This part contains the interpretative rules concerning the 72 COLREGS that are adopted by the Coast Guard for the guidance of the public.

§ 88.3 Pushing vessel and vessel being pushed: Composite unit.

Rule 24(b) of the 72 COLREGS states that when a pushing vessel and a vessel being pushed ahead are rigidly connected in a composite unit, they are regarded as a power-driven vessel and must exhibit the lights under Rule 23. A "composite unit" is interpreted to be a pushing vessel that is rigidly connected by mechanical means to a vessel being pushed so they react to sea and swell as one vessel. "Mechanical means" does not include the following:

(a) Lines.
(b) Hawsers.
(c) Wires.
(d) Chains.

(Convention on the International Regulations for Preventing Collisions at Sea, 1972 (as rectified); E.O. 11964 (42 FR 4327); 49 CFR 1.46(b).)

Dated: June 30, 1977.

E. L. PERRY,
Vice Admiral, U.S. Coast Guard,
Acting Commandant.

[FR Doc.77-19345 Filed 7-8-77;8:45 am]

[CGD 77-125]

PART 96—INTERPRETIVE RULINGS

Lights on Seagoing Steam Vessels Underway on Western Rivers

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This amendment interprets Rule 5 of the Rules of the Road for Western Rivers to provide that a *seagoing* steam vessel underway must carry lights as required by Rule 23 of the International Regulations for Preventing Collisions at Sea, 1972. The 1972 international rules were recently adopted and will go into effect as law in the United States on and after July 15, 1977. The effect of this amendment will be to require *seagoing* steam vessels when underway on the Western Rivers to use the navigation lights required by the 1972 international rules rather than lights required by previous international rules.

EFFECTIVE DATE: July 15, 1977.

FOR FURTHER INFORMATION CONTACT:

Captain George K. Greiner, Marine Safety Council (G-CMC/81), Room 8117, Department of Transportation, Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590 (202 426-1477).

SUPPLEMENTARY INFORMATION: Rule 5 of the Rules of the Road for Western Rivers requires a *seagoing* steam vessel underway to carry lights as required by Article 2 of the International Rules, as amended. When Rule 5 was enacted into law, Article 2 of the international rules was contained in the International Rules for Navigation at Sea, 1890. The most recent revision to Article 2 is contained in Rule 23 in the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS). Accordingly, Rule 5 as interpreted in this rule making requires a *seagoing* steam vessel underway on the Western Rivers to carry lights as required by Rule 23 of the 72 COLREGS.

The 72 COLREGS were recently adopted by international convention. The United States deposited its Instrument of Acceptance on November 23, 1976; and as proclaimed by the President on January 19, 1977, the convention will enter into force as law in the United States on and after July 15, 1977. The 72 COLREGS replace the International Rules For Preventing Collisions at Sea, 1960, which are codified in 33 U.S.C. 1051-1094. In accordance with Executive Order 11964 of January 19, 1977, the 72 COLREGS have been published in the FEDERAL REGISTER. (See the FEDERAL REGISTER of March 31, 1977, beginning at page 17112.)

The effective date of the amendment in this document is July 15, 1977, in order to coincide with the effective date of the 72 COLREGS.

Since this amendment is an interpretive rule, it is excepted from the rule making requirements in 5 U.S.C. 553 and may be made effective in less than 30 days.

DRAFTING INFORMATION

The principal persons involved in drafting this regulation are: William McGovern, Project Manager, Office of Marine Environment and Systems, and William R. Register, Project Counsel, Office of the Chief Counsel.

Accordingly, Part 96 of Title 33, Code of Federal Regulations, is amended by adding a new § 96.05-10 to read as follows:

§ 96.05-10 Lights on seagoing steam vessels underway.

Rule 5 of the Rules of the Road for Western Rivers (Rule Numbered 5 of Section 4233 of the Revised Statutes, as amended by the Act of May 21, 1948, 62 Stat. 250) requires a seagoing steam vessel underway to carry lights as required by Article 2 of the International Rules, as amended. The most recent revision to Article 2 is contained in Rule 23 of the International Regulations For Preventing Collisions at Sea, 1972 (72 COLREGS). Accordingly, Rule 5 as interpreted requires that a seagoing steam vessel underway carry lights as required by Rule 23 of the 72 COLREGS.

(5 U.S.C. 552, 14 U.S.C. 633, sec. 6(b)(1), 80 Stat. 937 (49 U.S.C. 1655(b)).)

Dated: June 30, 1977.

E. L. PERRY,
Vice Admiral, U.S. Coast Guard
Acting Commandant.

[FR Doc.77-19346 Filed 7-8-77;8:45 am]

Title 46—Shipping

CHAPTER I—COAST GUARD, DEPARTMENT OF TRANSPORTATION

[CGD 77-118b]

PART 7—BOUNDARY LINES

PART 42—DOMESTIC AND FOREIGN VOYAGES BY SEA

Republication of Boundary Lines

AGENCY: Coast Guard, DOT.

ACTION: Final Rule.

SUMMARY: These amendments establish a new part to publish the boundary lines that are used to ascertain the applicability of statutes relating to vessel inspection, equipment, and manning requirements. These boundary lines are transferred from an existing part to a new part because when the International Regulations for Preventing Collisions at Sea 1972 (COLREGS 72) come in to force on July 15, 1977, it will no longer be legally possible for the United States to use the existing boundary lines which in some cases would require vessels to comply with the Navigation Rules for Harbors, Rivers, and Inland Waters upon the high seas.

EFFECTIVE DATE: This amendment is effective at 1200 hours, Zone Time on July 15, 1977.

FOR FURTHER INFORMATION CONTACT:

Captain George K. Greiner, Marine Safety Council (G-CMC/81), Room 8117, Department of Transportation, Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590 (202 426-1477).

SUPPLEMENTARY INFORMATION: Since this amendment is concerned with a foreign affairs function of the United States and agency procedure, it is excepted from the rulemaking requirements under 5 U.S.C. 553 and may be made effective less than thirty days after publication in the FEDERAL REGISTER.

DRAFTING INFORMATION

The principal persons involved in drafting this rule are: Captain C. R. Hallberg and Lieutenant E. J. Gill, Jr., Project Attorneys, Office of the Chief Counsel.

DISCUSSION OF REGULATIONS

The Coast Guard will study the placement of the boundary lines set out in this document. Consideration will be given to moving the lines to reflect the limited purpose of the lines—delineating the application of certain vessel inspection, equipment and manning statutes. Upon completion of the study, notice will be issued in the FEDERAL REGISTER providing an opportunity to comment on relocation of these boundary lines.

Editorial changes are made to the boundary lines in order to clarify some existing discrepancies.

A fuller discussion of these amendments appears at page 35782 of this issue of the FEDERAL REGISTER.

Accordingly, Title 46 of the Code of Federal Regulations is amended as follows:

1. By adding a new Part 7 to read as follows:

GENERAL

Sec.
7.111 Galveston, Tex., to Brazos River, Tex.
7.116 Brazos River, Tex., to Rio Grande, Tex.

PACIFIC COAST

7.120 Strait of Juan de Fuca, Haro Strait, and Strait of Georgia.
7.122 Grays Harbor, Wash.
7.125 Columbia River Entrance.
7.127 Crescent City Harbor.
7.129 Arcata—Humboldt Bay.
7.131 Bodega and Tomales Bays.
7.133 San Francisco Harbor.
7.135 Santa Cruz Harbor.
7.137 Moss Landing Harbor.
7.139 Monterey Harbor.
7.141 Estero-Morro Bay.
7.143 San Luis Obispo Bay.
7.144 Ventura Marina.
7.145 San Pedro Bay.
7.147 Santa Barbara Harbor.
7.149 Port Hueneme.
7.151 Marina del Rey.
7.153 Redondo Harbor.
7.155 Newport Bay.
7.157 San Diego Harbor.
7.159 Isthmus Cove (Santa Catalina Island).
7.161 Avalon Bay (Santa Catalina Island).

HAWAII

7.175 Mamala Bay.

PUERTO RICO AND VIRGIN ISLANDS

7.200 Bahia de San Juan.
7.205 Puerto Arecibo.
7.210 Bahia de Mayaguez.
7.215 Bahia de Guanica.
7.220 Bahia de Guayanilla—Bahia de Tallaboa.
7.225 Bahia de Ponce.
7.230 Bahia de Jobos.
7.235 St. Thomas Harbor, St. Thomas.
7.240 Christiansted Harbor, Island of St. Croix, Virgin Islands.
7.245 Sonda de Vieques.

ALASKA

7.275 Bays, sounds, straits and inlets on the coast of southeastern Alaska between Cape Spencer Light and Sitklan Island.

AUTHORITY: Sec. 2, 28 Stat. 672 as amended (33 U.S.C. 151); sec. 6(b)(1), 80 Stat. 937 (49 U.S.C. 1655(b)(1)); 49 CFR 1.46(b).)

GENERAL

§ 7.1 General purpose of boundary lines.

The lines in this part delineate the application of certain domestic statutes relating to vessel inspection, equipment, and manning requirements.

ATLANTIC COAST

§ 7.5 All harbors on the coast of Maine, New Hampshire, and Massachusetts between West Quoddy Head, Maine, and Cape Ann Light, Mass.

A line drawn from Sail Rock Lighted Whistle Buoy 1 to the southeasternmost extremity of Long Point, Maine, to the southeasternmost extremity of Western Head; thence to the southeasternmost extremity of Old Man; thence to the southernmost extremity of Double Shot Islands; thence to Libby Island Light; thence to Moose Peak Light; thence to the eastern extremity of Little Pond Head. A line drawn from the southern extremity of Pond Point, Great Wass Island, to the southernmost point of Crumple Island; thence to Petit Manan Light; thence to Mount Desert Light; thence to Matinicus Rock Light; thence to Monhegan Island Light; thence to Seguin Light; thence to Portland Lighted Horn Buoy A; thence to Boon Island Light; thence to Cape Ann Lighted Whistle Buoy 2.

§ 7.10 Massassachusetts Bay.

A line drawn from Cape Ann Lighted Whistle Buoy 2 to Boston Lighted Horn Buoy B; thence to Cape Cod Light.

§ 7.15 Nantucket Sound, Vineyard Sound, Buzzards Bay, Narragansett Bay, Block Island Sound, and easterly entrance to Long Island Sound.

(a) A line drawn from Chatham Light to Pollock Rip Lighted Horn Buoy "PR"; thence to Great Round Shoal Channel Entrance Lighted Whistle Buoy "GRS"; thence to Sankaty Head Light.

(b) A line drawn from the westernmost extremity of Smith Point, Esther Island, to No Mans Land Lighted Whistle Buoy 2; thence to Gay Head Light; thence to Block Island Southeast Light; thence to Montauk Point Light on the easterly end of Long Island, N.Y.

§ 7.20 New York Harbor.

A line drawn from East Rockaway Inlet Breakwater Light to Ambrose Light; thence to Highlands Light (north tower).

§ 7.25 Delaware Bay and tributaries.

A line drawn from Cape May Inlet East Jetty Light to Cape May Harbor Inlet Lighted Bell Buoy 2CM; thence to South Shoal Lighted Bell Buoy 4; thence to the northernmost extremity of Cape Henlopen.

§ 7.30 Chesapeake Bay and tributaries.

A line drawn from Cape Henry Light to Cape Henry Buoy 1; thence to Chesapeake Bay Entrance Lighted Bell Buoy CBC; thence to North Chesapeake Entrance Lighted Gong Buoy NCD; thence to Cape Charles Light.

§ 7.35 Charleston Harbor.

A line drawn from Charleston Light on Sullivans Island to Charleston Lighted Whistle Buoy 2C; thence to Folly Island loran tower.

§ 7.40 Savannah Harbor.

A line drawn from the southwesternmost extremity of Braddock Point to Tybee Lighted Whistle Buoy T; thence to the southernmost point of Savannah Beach, bearing approximately 278° true.

§ 7.45 St. Simons Sound, St. Andrew Sound, and Cumberland Sound.

A line drawn from the tower located 1,700 yards, bearing 068° true from St. Simons Light to St. Simons Lighted Whistle Buoy St. S; thence to St. Andrew Sound Outer Entrance Buoy; thence to St. Marys Entrance Lighted Whistle Buoy STM; thence to Amelia Island Light.

§ 7.50 St. Johns River, Fla.

A line drawn from the east end of the north jetty to the east end of the south jetty.

§ 7.55 Florida Reefs and Keys from Miami to Marquesas Keys.

A line drawn from the east end of the north jetty at the entrance to Miami Harbor, to Miami Lighted Whistle Buoy M; thence to Fowey Rocks Light; thence to Pacific Reef Light; thence to Carysfort Reef Light; thence to Molasses Reef Light; thence to Alligator Reef Light; thence to Tennessee Reef Light; thence to Sombrero Key Light; thence to American Shoal Light; thence to Key West Entrance Lighted Whistle Buoy; thence to Sand Key Light; thence to Cosgrove Shoal Light; thence to the westernmost extremity of Marquesas Keys.

GULF COAST

§ 7.60 Florida Keys from Marquesas to Cape Sable.

A line drawn from the northwesternmost extremity of Marquesas Keys to Northwest Channel Entrance Lighted Bell Buoy 1; thence to the southernmost extremity of East Cape, Cape Sable.

§ 7.65 San Carlos Bay and tributaries.

A line drawn from the northwesternmost point of Estero Island to San Carlos Bay Light 2; thence to San Carlos Bay Light 1; thence to Sanibel Island Light.

§ 7.70 Charlotte Harbor, Fla., and tributaries.

Eastward of Charlotte Harbor Entrance Lighted Bell Buoy off Boca Grande.

§ 7.80 Tampa Bay and tributaries.

A line drawn from the southernmost extremity of Long Key, Fla., to Tampa Bay Lighted Whistle Buoy; thence to Southwest Channel Entrance Lighted Bell Buoy 1; thence to the shore on the northwest side of Anna Maria Key, bearing 109° true.

§ 7.89 Apalachee Bay, Fla.

Those waters lying north of a line drawn from Lighthouse Point on St. James Island to Gamble Point on the east side of the entrance to the Aucilla River, Fla.

§ 7.95 Mobile Bay, Ala., to Mississippi Passes, La.

Starting from a point which is located 1 mile, 90° true, from Mobile Point Light, a line drawn to Mobile Entrance Lighted Whistle Buoy 1; thence to Ship Island Light; thence to Chandeleur Light; thence in a curved line following the general trend of the seaward, highwater shorelines of the Chandeleur Islands to the southwesternmost extremity of Errol Shoal (23°35.8′ N. latitude, 89°00.8′ W. longitude); thence to a point 5.1 miles 107° true, from Pass at Loutre Abandoned Lighthouse.

§ 7.100 Mississippi River.

The Pilot Rules for Western Rivers are to be followed in the Mississippi

River and its tributaries above the Huey P. Long Bridge.

§ 7.103 Mississippi Passes, La., to Sabine Pass, Tex.

A line drawn from a point 5.1 miles, 107° true, from Pass a Loutre Abandoned Lighthouse to South Pass Lighted Whistle Buoy 2; thence to southwest Pass Entrance Midchannel Lighted Whistle Buoy; thence to Ship Shoal Daybeacon; thence to Calcasieu Channel Lighted Buoy 20; thence to Sabine Bank Channel Lighted Bell Buoy 12.

§ 7.106 Sabine Pass, Tex., to Galveston, Tex.

A line drawn from Sabine Bank Channel Lighted Bell Buoy 12 to Galveston Bay Entrance Channel Lighted Whistle Buoy 1.

§ 7.111 Galveston, Tex., to Brazos River, Tex.

A line drawn from Galveston Bay Entrance Channel Lighted Whistle Buoy 1 to Freeport Entrance Lighted Whistle Buoy 1.

§ 7.116 Brazos River, Tex., to the Rio Grande, Tex.

A line drawn from Freeport Entrance Lighted Whistle Buoy 1 to a point 4,350 yards, 118° true, from Matagorda Light; thence to Aransas Pass Lighted Whistle Buoy AP; thence to a position 10.5 miles, 90° true, from the north end of Lopeno Island (27°00.1' N. latitude, 97°15.5' W. longitude); thence to Brazos Santiago Entrance Lighted Whistle Buoy 1.

PACIFIC COAST

§ 7.120 Strait of Juan de Fuca, Haro Strait, and Strait of Georgia.

(a) A line drawn from the northernmost point of Angeles Point to Hein Bank Lighted Bell Buoy; thence to Salmon Bank Lighted Gong Buoy 3; thence to Cattle Point Light on San Juan Island.

(b) A line drawn from Lime Kiln Light to Kellett Bluff Light on Henry Island; thence to Turn Point Light on Stuart Island; thence to Skipjack Island Light; thence to Clements Reef Buoy 2; thence to Alden Bank Lighted Gong Buoy A; thence due north to a point on the United States-Canada boundary at latitude 49°00'08'' N., longtitude 122°52'32'' W.

§ 7.122 Grays Harbor, Wash.

A line drawn from Grays Harbor Bar Range Rear Light to Grays Harbor Entrance Lighted Whistle Buoy 3; thence to Grays Harbor Entrance Lighted Whistle Buoy 2; thence to Grays Harbor Light.

§ 7.125 Columbia River Entrance.

A line drawn from the west end of the north jetty (above water) to Columbia River South Jetty Bell Buoy 2SJ.

§ 7.127 Crescent City Harbor.

A line drawn from Crescent City Outer Breakwater to the highest point in the center of Whaler Island.

§ 7.129 Arcata—Humboldt Bay.

A line drawn from the outer end of Humboldt Bay North Jetty to the outer end of Humboldt Bay South Jetty.

§ 7.131 Bodega and Tomales Bays.

A line drawn from the northwestern tip of Tomales Point to Tomales Point Lighted Horn Buoy 2; thence to Bodega Harbor Approach Lighted Gong Buoy BA; thence to the southrnmost extremity of Bodega Head.

§ 7.133 San Francisco Harbor.

A straight line from Point Bonita Light drawn through Mile Rocks Light to the shore.

§ 7.135 Santa Cruz Harbor.

A line drawn from Santa Cruz Light to the southernmost projection of Soquel Point.

§ 7.137 Moss Landing Harbor.

A line drawn from the west end of Moss Landing Harbor North Breakwater to the west end of the pier located 0.3 mile to the south of Moss Landing Harbor North Breakwater.

§ 7.139 Monterey Harbor.

A line drawn from Monterey Harbor Breakwater Light to Monterey Harbor Anchorage Buoy B; thence to Monterey Harbor Anchorage Buoy A; thence to the north end of Monterey Municipal Wharf 2.

§ 7.141 Estero-Morro Bay.

A line drawn from the outer end of Morro Bay Entrance East Breakwater to Morro Bay Entrance Lighted Bell Buoy 1; thence to Morro Bay West Breakwater Light.

§ 7.143 San Luis Obispo Bay.

A light drawn from the outer end of Whaler Island Breakwater to the southernmost tip of Fossil Point.

§ 7.144 Ventura Marina.

(a) A line drawn from the south end of the detached breakwater to Ventura Marina Light 4.

(b) A line drawn 080° true from the north end of the detached breakwater to shore.

§ 7.145 San Pedro Bay.

A line drawn from Los Angeles Light to Los Angeles Main Channel Entrance Light 2; a line drawn from Long Beach Light to Long Beach Channel Entrance Light 2; a line drawn from Long Beach Breakwater East End Light to Anaheim Bay West Jetty Light 5; thence to Anaheim Bay East Jetty Light 6.

§ 7.147 Santa Barbara Harbor.

A line drawn from Stearns Wharf Light 4 to Santa Barbara Harbor Lighted Bell Buoy 1, thence to Santa Barbara Harbor Breakwater Light.

§ 7.149 Port Hueneme.

A line drawn from Port Hueneme West Jetty Light 1 to the southwest end of Port Hueneme East Jetty.

§ 7.151 Marina del Rey.

A line from Marina del Rey Detached Breakwater Light 1 to shore, in the direction 060° true; a line from Marina del Rey Detached Breakwater North Light 2 to shore, in the direction 060° true.

§ 7.153 Redondo Harbor.

A line drawn from Redondo Beach East Jetty Light 2 to Redondo Beach West Jetty Light 3.

§ 7.155 Newport Bay.

A line drawn from Newport Bay East Jetty Light 4 to Newport Bay West Jetty Light 3.

§ 7.157 San Diego Harbor.

A line drawn from the southerly tower of the Coronado Hotel to San Diego Channel Lighted Bell Buoy 5; thence to Point Loma Light.

§ 7.159 Isthmus Cove (Santa Catalina Island).

A line drawn from the northernmost point of Lion Head to the north tangent of Bird Rock Island; thence to the northernmost point of Blue Cavern Point.

§ 7.161 Avalon Bay (Santa Catalina Island).

A line drawn from White Rock to the northernmost point of Abalone Point.

HAWAII

§ 7.175 Mamala Bay.

A line drawn from Barbers Point Light to Diamond Head Light.

PUERTO RICO AND VIRGIN ISLANDS

§ 7.200 Bahia de San Juan.

A line drawn from the northwesternmost extremity of Punta del Morro to Puerto San Juan Lighted Buoy 1; thence to Puerto San Juan Lighted Buoy 2; thence to the northernmost extremity of Isla de Cabras.

§ 7.205 Puerto Arecibo.

A line drawn from the westernmost extremity of the breakwater through Puerto Arecibo Buoy 1; thence through Puerto Arecibo Buoy 2; thence to shore in line with the Church tower in Arecibo.

§ 7.210 Bahia de Mayaguez.

A line drawn from the southernmost extremity of Punta Algarrobo to Bahia de Mayaguez Entrance Lighted Buoy 3; thence to Bahia de Mayaguez Entrance Lighted Buoy 4; thence to the northwesternmost extremity of Punta Guanajibo.

§ 7.215 Bahia de Guanica.

A line drawn from the easternmost extremity of Punta Brea through Bahia de Guanica Lighted Buoy 6; thence to the westernmost extremity of Punta Jacinto.

§ 7.220 Bahia de Guayanilla-Bahia de Tallaboa.

A line drawn from the southernmost tip of Punta Ventana to Bahia de Guayanilla Entrance Lighted Buoy 1; thence to

Bahia de Tallaboa Lighted Buoy 1; thence 050° true through the southeastern tip of Cayo Parguera to the shoreline.

§ 7.225 Bahia de Ponce.

A line drawn from the southeasternmost extremity of Punta Cuchara through Bahía de Ponce Lighted Buoy 1; thence to Bahia de Ponce Lighted Buoy 2; thence to the southwesternmost extremity of Punta Cabullon.

§ 7.230 Bahia de Jobos.

A line drawn from Punta Arenas through Bahia de Jobos Light; thence to Bahia de Jobos entrance Lighted Buoy 2; thence to the southernmost extremity of Cayo Morrillo; thence to the southernmost extremity of Cayos de Pajaros.

§ 7.235 St. Thomas Harbor, St. Thomas.

A line drawn from the southernmost extremity of Red Point through West Gregerie Channel Buoy 1; thence to West Gregerie Channel Lighted Buoy 2; thence to the southernmost extremity of Flamingo Point; thence to St. Thomas Harbor Entrance Lighted Buoy 2; thence to the Green Cay.

§ 7.240 Christiansted Harbor, Island of St. Croix, Virgin Islands.

A line drawn from Shoy Point to Christiansted Harbor Channel Lighted Buoy 1; thence to stack at Little Princess northwestward of leper settlement.

§ 7.245 Sonda de Vieques.

A line drawn from the easternmost extremity of Punta Yeguas, Puerto Rico, to a point 1 mile due south of Puerto Ferro Light; thence eastward in a straight line to a point 1 mile southeast of Punta Este Light, Isla de Vieques; thence in a straight line to the easternmost extremity of Punta del Este, Isla Culebrita. A line from the northernmost extremity of Cayo Norte to Piedra Stevens Lighted Buoy 1; thence to Las Cucarachas Light; thence to Cabo San Juan Light.

ALASKA

§ 7.275 Bays, sounds, straits and inlets on the coast of southeastern Alaska between Cape Spencer Light and Sitklan Island.

A line drawn from Cape Spencer Light due south to a point of intersection which is due west of the southernmost extremity of Cape Cross; thence to Cape Edgecumbe Light; thence through Cape Bartolome Light and extended to a point of intersection which is due west of Cape Muzon Light; thence due east to Cape Muzon Light; thence to a point which is 1 mile, 180° true, from Cape Chacon Light; thence to Barren Island Light; thence to Lord Rock Light; thence to the southernmost extremity of Garnet Point, Kanagunut Island, thence to the southeasternmost extremity of Island Point, Sitklan Island. A line drawn from the northeasternmost extremity of Point Mansfield, Sitklan Island, 040° true, to where it intersects the mainland.

§ 42.03–1 [Amended]

2. In the note after § 42.03–1(b), by striking the words "33 CFR Part 82" and inserting the words "46 CFR Part 7" in place thereof.

(Sec. 2, 28 Stat. 672 as amended (33 U.S.C. 151); sec. 6(b)(1), 80 Stat. 937 (49 U.S.C. 1655(b)(1)); 49 CFR 1.46(b).)

Dated: June 30, 1977.

E. L. PERRY,
Vice Admiral, U.S. Coast Guard,
Acting Commandant.

[FR Doc.77-19343 Filed 7-8-77;8:45 am]

[CGD 77-126]

INTERNATIONAL REGULATIONS FOR PREVENTING COLLISIONS AT SEA, 1972

AGENCY: Coast Guard, DOT.

ACTION: Final Rules.

SUMMARY: The amendments in this document update existing references in Coast Guard regulations to the international rules for preventing collisions at sea. New international rules were recently adopted and will go into effect as law in the United States on and after July 15, 1977. The amendments also interpret Section 3 of the Motor Boat Act of April 25, 1940, to require motorboats underway in waters subject to the Act to carry either the navigation lights prescribed by Section 3 or the lights required by the new international rules. The effect of this action will be to require motorboats that elect to carry navigation lights required by the international rules when underway in waters subject to the Motor Boat Act to meet the requirements of the new rules on and after July 15, 1977.

EFFECTIVE DATE: July 15, 1977.

FOR FURTHER INFORMATION CONTACT:

Captain George K. Greiner, Marine Safety Council (C-CMC/81), 400 Seventh Street, SW., Washington, D.C. 20590, 202-426-1477.

SUPPLEMENTARY INFORMATION: Certain Coast Guard regulations in Title 46 contain references to the international "rules of the road" currently in effect. The current rules are The International Rules For Preventing Collisions at Sea, 1960, which are codified at 33 U.S.C. 1051–1094. The 1960 rules replaced the International Regulations For Preventing Collisions at Sea, 1948, and in turn are being replaced as of July 15, 1977, by the International Regulations For Preventing Collisions at Sea, 1972 (72 COLREGS). Accordingly, the updated references in the amendments to §§ 25.05–1, 96.20–1, and 195.20–1 are to the 72 COLREGS.

The 72 COLREGS were recently adopted by international convention. The United States deposited its Instrument of Acceptance on November 23, 1976; and as proclaimed by the President on January 19, 1977, the convention will enter into force as law in the United States on and after July 15, 1977. In accordance with Executive Order 11964 of January 19, 1977, the 72 COLREGS have been published in the FEDERAL REGISTER (See the FEDERAL REGISTER of March 31, 1977, beginning at page 17112).

Section 3 of the Motor Boat Act of April 25, 1940 (Motorboat Act) requires in part that motorboats, when underway in waters subject to the Act, carry either the navigation lights prescribed by the Motorboat Act or the navigation lights required by the International Regulations For Preventing Collisions at Sea, 1948, as amended. (The waters subject to the Motorboat Act are the waters governed by the Inland, Great Lakes, and Western Rivers Rules of the Road.) The current regulations in §§ 25.05–10 and 96.20–10 that implement Section 3 do not specify the applicable amendments. The most recent revisions to the 1948 international rules are the 72 COLREGS. Accordingly, the Coast Guard interprets Section 3 of the Motorboat Act to require motorboats when underway in waters subject to the Inland, Great Lakes, or Western Rivers Rules of the Road to carry the navigation lights prescribed by the Motorboat Act or, in lieu of those lights, the navigation lights prescribed by the 72 COLREGS. The amendments to §§ 25.05–10 and 96.20–10 reflect this interpretation.

The 72 COLREGS contain several technical requirements for lights that were not contained in previous international rules. Rule 38 of the 72 COLREGS provides for exempting vessels or classes of vessels from compliance with specific technical requirements for time periods prescribed in that rule. Because of these exemptions, which are published elsewhere in this issue of the FEDERAL REGISTER, the regulations in this document should not have immediate impact on motorboats that carry navigation lights required by the current international rules of the road.

In addition to the amendments discussed above, the final rules contain minor editorial revisions that make no substantive changes to the existing regulations.

The effective date of the amendments in this document is July 15, 1977, in order to coincide with the effective date of the 72 COLREGS.

Since these amendments are editorial changes and interpretive rules, they are excepted from the rulemaking requirements in 5 U.S.C. 553 and may be made effective in less than 30 days.

DRAFTING INFORMATION

The principal persons involved in drafting these regulations are: William McGovern, Project Manager, Office of Marine Environment and Systems, and William R. Register, Project Counsel, Office of the Chief Counsel.

Accordingly, Title 46, Code of Federal Regulations, is amended as follows:

PART 25—REQUIREMENTS

1. Section 25.05–1 of Part 25 is revised to read as follows:

§ 25.05–1 Vessels operating on waters governed by the 72 COLREGS.

Each vessel, including a motorboat, operating on waters governed by the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS) must be equipped with navigation lights and shapes, whistles, foghorns, fog bells, and gongs as required by those international rules.

2. The following authority citation is added to the end of § 25.05–1:

(Convention on the International Regulations for Preventing Collisions at Sea, 1972 (as rectified); E.O. 11964 (42 FR 4327); 49 CFR 1.46(b).)

3. Section 25.05–10(b) of Part 25 is revised to read as follows:

§ 25.05–10 Vessels operating on waters governed by the Inland, Great Lakes, or Western Rivers Rules of the Road.

* * * * *

(b) Each motorboat operating on waters governed by the Inland, Great Lakes, or Western Rivers Rules of the Road must be equipped with the following:

(1) The navigation lights required by Section 3 of the Motor Boat Act of April 25, 1940, as amended (46 U.S.C. 526b) or, in lieu thereof, the lights required by the International Regulations For Preventing Collisions at Sea, 1972 (72 COLREGS).

* * * * *

PART 96—VESSEL CONTROL AND MISCELLANEOUS SYSTEMS AND EQUIPMENT

4. Section 96.20–1 of Part 96 is revised to read as follows:

§ 96.20–1 Vessels operating on waters governed by the 72 COLREGS.

Each vessel, including a motorboat, operating on waters governed by the International Regulations For Preventing Collisions at Sea, 1972 (72 COLREGS) must be equipped with navigation lights and shapes, whistles, foghorns, fog bells, and gongs as required by those international rules.

5. The following authority citation is added to the end of § 96.20–1:

(Convention on the International Regulations For Preventing Collisions at Sea, 1972 (as rectified); E.O. 11964 (42 FR 4327); 49 CFR 1.46(b))

6. Section 96.20–10(b) of Part 96 is revised to read as follows:

§ 96.20–10 Vessels operating on waters governed by the Inland, Great Lakes, or Western Rivers Rules of the Road.

* * * * *

(b) Each motorboat operating on waters governed by the Inland, Great Lakes, or Western Rivers Rules of the Road must be equipped with the following:

(1) The navigation lights required by Section 3 of the Motor Boat Act of April 25, 1940, as amended (46 U.S.C. 526(b) or, in lieu thereof, the lights required by the International Regulations For Preventing Collisions at Sea, 1972 (72 COLREGS).

* * * * *

PART 195—VESSEL CONTROL AND MISCELLANEOUS SYSTEMS AND EQUIPMENT

7. Section 195.20–1 of Part 195 is revised to read as follows:

§ 195.20–1 Vessels operating on waters governed by the 72 COLREGS.

Each vessel, including a motorboat, operating on waters governed by the International Regulations For Preventing Collisions at Sea, 1972 (72 COLREGS) must be equipped with navigation lights and shapes, whistles, foghorns, fog bells, and gongs as required by those international rules.

8. The following authority citation is added to the end of § 195.20–1:

(Convention on the International Regulations For Preventing Collisions at Sea, 1972 (as rectified); E.O. 11964 (42 FR 4327); 49 CFR 1.46(b).)

(46 U.S.C. 375, 416, and 526p; 49 U.S.C. 1655(b); Convention on the International Regulations for Preventing Collisions at Sea, 1972 (as rectified); E.O. 11964 (42 FR 4327); 49 CFR 1.46(b).)

Dated: June 30, 1977.

E. L. PERRY,
Vice Admiral, U.S. Coast Guard
Acting Commandant.

[FR Doc.77–19344 Filed 7–6–77; 8:45 am]

federal register

MONDAY, JULY 11, 1977
PART V

ENDANGERED SPECIES SCIENTIFIC AUTHORITY

■

INTERIM CHARTER

Request for Comments on Interim Charter and on Criteria for Permit Application Evaluation

ENDANGERED SPECIES SCIENTIFIC AUTHORITY

INTERIM CHARTER

Requests for Comments on Interim Charter and on Criteria for Permit Application Evaluation

Notice is hereby given of the Interim Charter of the Endangered Species Scientific Authority (ESSA). Comment is solicited on all aspects of the Interim Charter and on species-by-species criteria for permit application evaluation, as well as on biological and trade information in support of such criteria.

The ESSA was established on April 13, 1976, by Executive Order 11911, 41 FR 15683 (1976). It is composed of the following representatives of six Federal agencies and the Smithsonian Institution:

Member and Department or Agency

Mr. John Spinks, Chairman, Department of the Interior
Dr. Robert L. Williamson, Department of Agriculture
Dr. R. V. Miller, Department of Commerce
Dr. Joe R. Held, Department of Health, Education, and Welfare
Mr. William Sievers, National Science Foundation
Dr. Lee M. Talbot, Council on Environmental Quality
Dr. David Challinor, Smithsonian Institution.

The ESSA was created to insure the scientific soundness of governmental decisions concerning trade in endangered species of animals and plants. Its primary responsibility is as the United States Scientific Authority for the Convention on International Trade in Endangered Species of Wild Fauna and Flora (Convention), TIAS 8249 (1973), which became effective July 1, 1975. Department of the Interior regulations were promulgated to implement the Convention on Febraury 22, 1977, 42 FR 10462–10488, and became generaly effective May 23, 1977.

The preamble to the Convention regulations describes the Convention and its history as well as the regulations. In brief, the Convention protects three categories of species. First are those species of animals and plants that are threatened with extinction and which are or may be affected by trade. These species are listed in "Appendix I" of the Convention, and trade in them may only be authorized in exceptional circumstances. Second are those species not necessarily now threatened with extinction but which may become so unless trade in them is subject to strict regulation. These species are listed in "Appendix II" of the Convention, along with any othre species whose similarity to truly threatened or potentially threatened species requires that they be regulated because of the risk of confusion. Third are those species that any Party to the Convention conserves within its jurisdiction and has identified as needing the cooperation of other parties to control trade. These species are listed in "Appendix III" of the Convention.

The Convention and its implementing regulations control trade in those species listed in the Appendices, and a complete list of these species may be found in the February 22, 1977 Convention regulations 42 FR 10469–10488. Except for several important exceptions spelled out in the Convention and regulations, permits required for trade in Appendix I and II species may not be issued by the Federal Wildlife Permit Office until it has determined that certain requirements have been met and, in addition, the ESSA has advised it of certain findings: (1) Export permits may not be issued for Appendix I or II specimens unless the ESSA finds that the export will not be detrimental to the survival of the species; (2) Permits may not be issued to introduce from the sea Appendix I or II specimens unless the ESSA finds such action will not be detrimental to the survival of the species, and, for Appendix I, that the recipient is suitably equipped to house and care for living specimens; (3) Permits may not be issued to import Appendix I specimens from other countries, unless the ESSA finds that the import will be for purposes which are not detrimental to the species involved and that the recipient of a living specimen is suitably equipped to house and care for it.

The Interim Charter published with this notice states in very general terms the factors that may be considered by the ESSA to make these findings, and the ESSA would appreciate comments on these factors as well as on every other provision of the Interim Charter. However, the ESSA also intends to establish particular criteria for each listed species as to what trade activity will not be detrimental to survival and, for Appendix I, as to what constitutes suitable housing and care. Although recognizing the difficulty of such an endeavor, and the probable need for frequent amendment of such criteria, the ESSA believes that such criteria are essential if the permit applicant and the general public are to understand how applications are evaluated, and are to know how they may correct deficiences in that process. To the extent possible, the ESSA will develop such criteria concurrently with evaluating permit applications, seeking to establish eventually refined and biologically sound criteria from which findings on individual applications follow with the greatest possible certainty.

Establishment of truely sound criteria for findings on permit applications will require more information on many Convention species than is currently available. Therefore, the ESSA requests not only recommended criteria for its findings on permit applications, but also biological and trade information in support of those recommendations, as well as any other information on the species that may be relevant to the responsibilities of the ESSA.

Although comments on species will be considered in any form, review will be facilitated if comments approximate the following form, in whole or in part:

1. The common and scientific name of the Appendix I or II species concerned.

2. Summary of life history in the wild, with trends and references, including:
(a) Distribution and abundance.
(b) Reproductive rate.
(c) Death rate.
(d) Age at first reproduction.
(e) Number of offspring produced.
(f) Social behavior relevant to endangerment.
(g) Habitat and particular ecological requirements, including as appropriate: space, food, water, light, minerals, cover or shelter, and sites for breeding, reproduction, and rearing of offspring.

3. Causes of endangerment other than trade, including:
(a) Habitat destruction or modification.
(b) Taking not involving trade.
(c) Pollution.
(d) Competition, predation, or disease.
(e) Other natural or man-made factors.

4. Trade status with trends and references, including purposes of trade and number of individuals, both for the U.S. and worldwide, with discussion including reference to regulatory mechanisms.

5. Housing and care requirements, with any references, including a life history analysis for captivity.

6. Individuals or organizations with expertise on the species.

7. If the species occurs in the wild within the jurisdiction of the United States or occurs on the seas, recommended criteria and supporting grounds for determining whether export or introduction from the sea will not be detrimental to the survival of the species, including:
(a) The allowable volume of export, or introduction from the sea, stated as a rate and for different populations and for different purposes, if such exist. For some species the rate might be expressed as number of specimens per year per State. Those commenting should distinguish purposes that tend to reduce demand on wild populations (e.g. development of captive self-sustaining populations) from those purposes that may leave demand unchanged or may increase demand.
(b) Any conditions that should be attached to permit issuance, for example conditions concerning method, time, or place of taking, if considered necessary for a finding of no detriment to survival.

8. If the species is on Appendix I, recommended criteria and supporting grounds for determining whether importation from other countries will be for purposes not detrimental to the survival of the species, including:
(a) A statement of the allowable volume of import, stated as a rate and for different populations, different countries and different purposes, if considered necessary and appropriate as a check on the finding of no detriment to survival that is required of exporting countries.
(b) A statement distinguishing purposes of import that may be detrimental to the survival of the species from those purposes that will not be detrimental.
(c) Any conditions of permit issuance that will ensure an appropriate purposes.

9. If the species is on Appendix I, recommended criteria and supporting grounds for determining if recipients are suitably equipped to house and care for living specimens imported from other countries or introduced from the sea. Criteria for particular species should, if possible, follow the format of Article IV D. of the Interim Charter, but should add or delete categories as appropriate for particular species. Comments should be as specific as possible as to what is, suitable, and should be closely tailored to the particular requirements of the specimens

in question. Comment should also include any conditions of permit issuance that will help to ensure that housing and care is suitable.

Comments on the Interim Charter should be made within 60 days of the date this notice is published, so that a Final Charter may be agreed upon without excessive delay. Information on Convention species and recommended criteria for findings on permit applications will be considered on a continuing basis. The ESSA stresses that the value of comment on particular species turns heavily on supporting documentation and specificity. Whereas one small bit of well documented information may be decisive in deliberations of the ESSA, broad but unsubstantiated generalizations are unlikely to be so. The ESSA understands that preparation of such comments is time consuming, and emphasizes that any information on Convention species will be appreciated and will enhance the ESSA's ability to make sound findings.

All comments should be submitted to the Office of the Executive Secretary, Endangered Species Scientific Authority, 18th and C Streets, N.W., Washington, D.C. 20240. The ESSA will attempt to acknowledge all comments, but may be unable to respond substantively. However, all comments on the Interim Charter will be considered in development of a Final Charter, and all submittals on particular species will be considered in developing criteria to evaluate permit applications.

Dated: July 6, 1976.

WILLIAM Y. BROWN,
Executive Secretary.

The text of the Interim Charter is as follows:

UNITED STATES ENDANGERED SPECIES SCIENTIFIC AUTHORITY

INTERIM CHARTER

I. MAJORITY VOTING

The Endangered Species Scientific Authority (ESSA) shall agree to any action, including amendment of this Charter, by majority vote of a quorum consisting of at least five of the seven members or their alternates.

II. AGENCY REPRESENTATIVES AND ALTERNATES

Each Federal agency represented on the ESSA and the Smithsonian Institution shall provide the Executive Secretary with the name, position, address, and phone number of its representative, and of an alternate.

III. MEETINGS

The ESSA shall meet the first Tuesday of each month unless otherwise agreed.

IV. CONVENTION PERMITS AND CERTIFICATES

A. Appendix I

1. Exportation of specimens. The ESSA shall advise the Management Authority whether the export of any Appendix I specimen will not be detrimental to the survival of that species.

2. Importation of specimens. (a) The ESSA shall advise the Management Authority whether the import of any Appendix I specimen will be for purposes that are not detrimental to the survival of that species.

(b) The ESSA shall advise the Management Authority whether it is satisfied that the proposed recipient of any living Appendix I specimen is suitably equipped to house and care for the specimen.

3. Introduction of specimens from the sea. (a) The ESSA shall advise the Management Authority whether the introduction from the sea of any Appendix I specimen will not be detrimental to the survival of that species.

(b) The ESSA shall advise the Management Authority whether it is satisfied that the proposed recipient of any living Appendix I specimen is suitably equipped to house and care for the specimen.

B. Appendix II

1. Exportation of specimens. (a) The ESSA shall advise the Management Authority whether the export of any Appendix II specimen will not be detrimental to the survival of that species.

(b) The ESSA shall monitor both the export permits granted by the United States for specimens of species included in Appendix II and the actual exports of such specimens. Whenever the ESSA determines that the export of specimens of any such species should be limited in order to maintain that species throughout its range at a level consistent with its role in the ecosystems in which it occurs and well above the level at which that species might become eligible for inclusion in Appendix I, the ESSA shall advise the Management Authority of suitable measures to be taken to limit the grant of export permits for specimens of that species.

2. Introduction of specimens from the sea. The ESSA shall advise the Management Authority whether introduction from the sea of any Appendix II specimen will not be detrimental to the survival of that species. Such advisement may, when appropriate, apply to total number of specimens to be introduced over periods not exceeding one year.

C. Actions not detrimental to the survival of a species

In determining whether an export, purpose of import, or introduction from the sea will not be detrimental to the survival of a species, the ESSA may consider the following factors, among others:

1. Whether similar export, import, or introduction from the sea has occurred in the past, and has not reduced the numbers or distribution of the species, nor caused signs of ecological or behavioral stress within the species, or in other species of the affected ecosystem.

2. Whether life history parameters of the species and the structure and function of its ecosystem indicate that the present frequency of export, import, or introduction from the sea will not appreciably reduce the numbers or distribution of the species, nor cause signs of ecological or behavioral stress within the species or in other species of the affected ecosystem.

3. Whether such export, import, or introduction from the sea is expected to increase, decrease, or remain constant in frequency.

D. Suitable housing and care

In determining whether the proposed recipient of a living Appendix I specimen is suitably equipped to house and care for it, the ESSA may, as appropriate, consider the following factors among others:

1. Housing. (a) Whether facilities are of a structure and state of repair adequate to contain and unlikely to injure the specimen.

(b) Whether facilities provide space essential to health and well-being.

(c) Whether facilities are served by an adequate power source.

(d) Whether facilities are properly ventilated and lighted and whether the temperature may be kept within the normal range of the specimen's requirements.

(e) Whether adequate facilities are available for the disposal of water and for cleaning.

(f) Whether food and other materials used in the care of the specimen will be stored and maintained in facilities that keep the food in a wholesome condition.

2. Care. (a) Whether ventilation, lighting, and temperature will be adequately monitored and controlled.

(b) Whether water, food, and other nutritional requirements will be supplied that are adequate in kind, amount, quality and availability.

(c) Whether waste will be removed expeditiously, and a high level of sanitation maintained generally.

(d) Whether persons caring for the specimens have experience with the same or similar species.

(e) Whether the specimens will be sheltered from circumstances adverse to their well-being, and will be properly cared for if ill or injured.

V. AMENDMENTS TO CONVENTION APPENDICES

The ESSA shall review the species of the world on a continuing basis to determine whether they should be aded to or deleted from the Convention Appendices, and shall advise the Management Authority of any recommended amendments.

A. Appendices I and II

Additions and deletions with respect to Appendices I and II will be recomended consistent with criteria established by the Parties to the Convention.

B. Appendix III

Additions to Appendix III will be recommended if a species on none of the Appendices is subject to protective regulation within the jurisdiction of the United States and is found in need of the cooperation of other Convention parties in the control of trade. Deletion will be recommended if a species is found to no longer meet the criteria above.

VI. AMENDMENTS TO CONVENTION TEXT AND REGULATIONS

As necessary and appropriate, the ESSA shall advise the Management Authority of any amendments to the Convention text or implementing regulations that, in its opinion, will further the purposes of the Convention.

VII. INTERNATIONAL AND INTERSTATE SHIPMENT OF FAUNA AND FLORA

The ESSA shall advise the Secretary of the Interior in developing and implementing a system to standardize and simplify the requirements, procedures, and other activities

related to the issuance of permits for the international and interstate shipment of fauna and flora, including, as appropriate, the parts or products of such fauna and flora.

VIII. CONFISCATED SPECIMENS

As necessary and appropriate, the ESSA shall advise the Management Authority on the proper disposition of specimens confiscated because of trade in violation of the Convention.

IX. OUTSIDE OPINIONS

In the discharge of its responsibilities the ESSA shall, to the extent practicable, ascertain the views of, and utilize the expertise of, the governmental and non-governmental scientific communities, State agencies responsible for the conservation of wild fauna and flora, humane groups, zoological and botanical institutions, recreational and commercial interests, the conservation community, and others as appropriate. Such coordination shall include but not be limited to:

A. Outside review of the ESSA Charter.

B. Outside comment on implementation of the Charter, including criteria for ESSA findings upon permit applications.

C. Outside review of ESSA recommendations on amendments to the Convention Appendices and Text.

X. AUTHORITY AND DUTIES OF THE CHAIRPERSON

The Chairperson of the ESSA shall:

A. Convene and preside at all meetings of the ESSA.

B. Represent the ESSA at plenary meetings of the Convention.

C. Act on behalf of the ESSA pursuant to any authority it may grant.

D. Supervise the activities of the Executive Secretary.

XI. AUTHORITY AND DUTIES OF THE EXECUTIVE SECRETARY

The Executive Secretary of the ESSA shall:

A. Arrange for and organize the meetings of the ESSA.

B. Ensure that all available relevant information required for action under Articles IV through VIII of this Charter is put before the ESSA in a timely fashion.

C. Ensure that the outside opinion provisions of Article IX are pursued vigorously, including personal representation of the ESSA before interested organizations and publication of notices in the FEDERAL REGISTER.

D. Maintain the records of the ESSA.

E. Act on behalf of the ESSA pursuant to any authority it may grant.

F. Arrange the administrative support for the ESSA.

G. Supervise the staff of the ESSA.

[FR Doc.77-19655 Filed 7-8-77;8:45 am]

federal register

MONDAY, JULY 11, 1977
PART VI

ENVIRONMENTAL PROTECTION AGENCY

■

NEW WHEEL AND CRAWLER TRACTORS

Noise Emission Standards for Construction Equipment

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 204]

[FRL 701-8]

NOISE EMISSION STANDARDS FOR CONSTRUCTION EQUIPMENT

New Wheel and Crawler Tractors

AGENCY: Environmental Protection Agency.

ACTION: Proposed rulemaking.

SUMMARY: This notice proposes noise emission standards for wheel and crawler type tractors manufactured primarily for construction applications. This action is being taken under the authority of the Noise Control Act of 1972. Compliance with the proposed standards should, on the average, reduce noise from wheel and crawler tractors by 5 dBA. In terms of reduced impact on the Nation's population, the 5 dBA reduction, when considered in combination with existing Federal standards for new portable air compressors and medium and heavy trucks, should result in a reduction of approximately 37 percent in the severity and extensiveness of construction site noise impact by the year 1991. This represents an increase of approximately 10 percent in additional benefits over those anticipated to accrue from the existing Federal noise regulations of portabe air compressors and medium and heavy trucks used at construction sites.

DATES: The official docket (Docket Number ONAC 77-2) for the proposed Wheel and Crawler Tractor noise emission regulation will remain open for the submittal of comments until 4:30 p.m. September 30, 1977. At that time, all materials submitted for the record, including transcripts of all public hearings, will become part of the official record. Public hearings will be held on August 30, 1977, commencing at 9:00 a.m. in the Benjamin Franklin Hotel, 9th and Chestnut Streets, Philadelphia, Pennsylvania 19105, and on September 1, 1977, commencing at 9:00 a.m., in the Ambassador Hotel, 3400 Wilshire Blvd., Los Angeles, California 90010.

ADDRESS: Persons wishing to submit comments should write to the following address:

Director, Standards and Regulations Division (AW-471), Office of Noise Abatement and Control, Attn: Wheel and Crawler Tractor Docket Number 77-2, U.S. Environmental Protection Agency, Washington, D.C. 20460.

All comments received, which are not identified as company proprietary in nature, will be open for public inspection during normal business hours at the U.S. Environmental Protection Agency, Public Information Reference Unit, Room 2922, 401 M Street SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

Ms. Ellen Robinson, Public Information Specialist, U.S. Environmental Protection Agency, Office of Public Affairs (A-107), 401 M Street S.W., Washington, D.C. 20460, 202-755-0704.

SUPPLEMENTARY INFORMATION: See following text.

1.0 Introduction

Through the Noise Control Act of 1972, Pub. L. 92-574, 86 Stat. 1234 et seq., Congress established a national policy "to promote an environment for all Americans free from noise that jeopardizes their health and welfare." In pursuit of that policy, Congress stated, in section 2 of the Act, "that, while primary responsibility of control of noise rests with State and local governments, Federal action is essential to deal with major noise sources in commerce, control of which requires national uniformity of treatment."

As part of this Federal action, section 5(b)(1) of the Act requires the Administrator, after consultation with appropriate Federal agencies, to publish a report or series of reports "identifying products (or classes of products) which in his judgment are major sources of noise." The Administrator published in the Federal Register (40 FR 23105, May 28, 1975) a report which identified "wheel and track loaders and wheel and track dozers" as major sources of noise.

Section 6(a) of the Act requires the Administrator to publish proposed regulations for each product which is identified or which is part of a product class identified as a major source of noise, where in his judgment noise standards are feasible. Such regulations are to include standards that set limits on the noise emission from new products which are requisite for the protection of public health and welfare with an adequate margin of safety, taking into account the magnitude and conditions of use of such products (alone or in combination with other noise sources), the degree of noise reduction achievable through the application of the best technology available and the cost of compliance.

Section 6(d)(1) of the Act specifies that the manufacturer of each new product shall warrant to the ultimate purchaser and each subsequent purchaser that the product is designed, built and equipped so as to conform at the time of sale to the regulation.

Under section 6(e)(1), no State and political subdivision thereof may adopt or enforce any law or regulation which sets a limit on noise emissions from new products regulated by EPA, unless such law is identical to the applicable EPA regulation. The requirement to be "identical" applies to the standard and those elements of the measurement methodology which define the standard; these must be identical to those in the EPA regulation. However, other elements of the State and local law need not be identical. Such elements include the list of persons subject to the regulation, sanctions, enforcement procedures and correlatable or equivalent "short test" used for enforcement purposes.

Section 6(e)(2) of the Act specifies that nothing in section 6 shall preclude or deny the right of any State or political subdivision thereof to establish and enforce controls on environmental noise and sources thereof through the licensing, regulation, or restriction of the use, operation, or movement of any product or combination of products. Such controls which are reserved to State and local authority under this section include, but are not limited to, the following:

(1) Controls on the time of day during which products may be operated.

(2) Controls on the places or zones in which products may be used.

(3) Controls on the noise emission level of products during use and operation that are enforceable against the consumer.

(4) Controls on the number of products which may be operated at the same time.

(5) Controls on noise emission levels from the properties on which products are used.

(6) Controls on the licensing of products.

(7) Controls on the manner of operation of products.

State and local time-of-sale noise emission regulations applicable to products which are not covered by Federal regulation are in no way preempted by these regulations.

Section 10 of the Act establishes prohibited acts in relation to products for which section 6 regulations are applicable. Distribution in commerce of any new product manufactured after the effective date of regulations under section 6 is prohibited unless it is in conformity with such regulations. Removal or rendering inoperative of any device or element of design incorporated into any product in compliance with section 6 regulations other than for purposes of maintenance, repair, or replacement, prior to its sale or delivery to the ultimate purchaser or while it is in use is prohibited. The use of a product which has been tampered with is also prohibited.

Section 11 of the Act specifies enforcement penalties for violation of any prohibited act under section 10. Such penalties for first violations include a fine of not more than $25,000 per day of violation, or imprisonment for not more than one year or both for knowing or willful violations. The penalties double for subsequent violation.

Section 13 of the Act provides the authority for the Administrator to require a manufacturer to establish and maintain records, make such reports, and provide such information as is necessary for him to determine compliance.

Section 15 of the Noise Control Act establishes a process by which the Federal Government will give preference in

its purchasing to products whose noise emissions are significantly below those required by the Federal noise emission standards promulgated pursuant to Section 6 of the Act. Accordingly, the EPA has published procedures for Certification of Low-Noise-Emission Products (LNEP) (40 CFR Part 203).

For wheel and crawler tractors the specific noise emission level criteria required for LNEP determination are contained in § 204.102(d) of the proposed regulation.

Section 16(d) grants the Administrator the authority to issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents to assist him in obtaining information to carry out the purposes of the Act.

2.0 The Proposed Regulation

The proposed noise emission standards and effective dates, presented in Table 1, apply to wheel loaders, crawler tractors and wheel tractors while operating at maximum governed speed (high idle) with the vehicle at rest. A-weighted sound pressure levels are to be measured at an "on axis" distance of 15 meters from the front, rear and sides of the machine. The standard noise measurements procedure is presented in detail in § 204.104 of subpart C.

The Agency believes that the estimated health and welfare benefits from this proposed noise emission standard can be attained only if wheel and crawler tractors meet the not-to-exceed levels in Table 1 for a reasonable in-use period. At a minimum it means the standard must be met for an initial period of time and/or use, beginning on the date of the product's delivery to the ultimate purchaser. This period is described by the Agency as the Acoustical Assurance Period (AAP). It is defined as that period during which the product must meet the standard when the product is properly used and maintained. In the case of wheel and crawler tractors the Acoustical Assurance Period is 5-years or 9000 operating hours, whichever occurs first.

A manufacturer may stipulate, under § 204.108–4 of subpart C, an anticipated increase in the noise level of his product(s) during the AAP. A manufacturer must take this anticipated increase in noise level, expressed in terms of a Sound Level Degradation Factor (SLDF), into account when performing tests to show compliance with the applicable standard. That is, where an SLDF is anticipated, a manufacturer must show that his product meets a level defined by the applicable standard of Table 1 minus the SLDF value.

The Administrator has determined that the proposed standards are feasible and represent those levels of noise requisite to the protection of the public health and welfare, taking into account the degree of noise reduction achievable by application of the best available technology and the cost of compliance as required by section 6 of the Act.

Table 1.—*Proposed regulatory noise emission standards*

Machine type	Horsepower	Not to exceed A-weighted Sound pressure level (dBA)	Effective dates
Crawler tractor.	20 to 199	77	Mar. 1, 1981
		74	Mar. 1, 1984
Do	200 to 450	83	Mar. 1, 1981
		80	Mar. 1, 1984
Wheel loader.	20 to 249	79	Mar. 1, 1981
		76	Mar. 1, 1984
Do	250 to 500	84	Mar. 1, 1981
		80	Mar. 1, 1984
Wheel tractor.	20+	74	Mar. 1, 1981

EPA is unaware at this time of any manufacturer who would be unable to comply with the proposed standards by the specified effective dates. The Agency solicits submittal of such data or information during the public comment period that substantiates or refutes this view.

The proposed regulation incorporates an enforcement program which includes production verification, selective enforcement auditing procedures, warranty, maintenance, compliance labeling, and anti-tampering provisions.

3.0 Background Information

3.1 *General.* The proposed regulation is the third in a series of regulations affecting construction site equipment noise. In arriving at the proposed regulation, the Agency carried out detailed investigations of wheel and crawler tractor design, manufacturing and assembly processes; available noise control technology; noise measurement methodologies; costs attendant to noise control methods; the cost to test machines for compliance; the cost of recordkeeping; possible economic impacts; and the potential environmental and health and welfare benefits associated with the application of various noise control measures. The information summarized briefly herein is presented in detail in the "Environmental Impact Statement, Economic Impact Statement and Background Document for Noise Emission Standards for Wheel and Crawler Tractors" referred to hereafter as the "Background Document."

To meet the requirements of the Act, to consider "the best available technology, taking into account the cost of compliance," the Agency constructed definitions of the terms "best available technology" and "cost of compliance." In doing so, the Agency carefully considered the strict language of the Act, its legislative history, and other relevant data. Based thereon, the following definitions have been established by the Administrator for the purposes of this regulation.

3.1.1 "Best available technology". EPA considers the level "achievable through the application of the best available technology" to be the lowest noise level which can be reliably predicted based on engineering analysis of products subject to the standard that manufacturers will be able to meet by the effective date, through application of currently known noise attenuation techniques and materials. In order to assess what can be achieved, EPA has (1) identified the sources of tractor noise and the levels to which each of these sources can be reduced, using currently known techniques; (2) determined the level of overall tractor noise that will result; (3) assured that all such techniques may be applied to the general tractor population; (4) assured that all such techniques are adaptable to production line assembly; and (5) assured that sufficient time is allowed for the design and application of this technology by the effective dates of the standards.

3.1.2 "Cost of compliance" is defined as the cost of identifying what action must be taken to meet the specified noise emission level, the cost of taking that action, any additional cost of operation and maintenance caused by that action, and costs of noise testing and record keeping required by the regulation.

3.1.3 To determine what constitutes the best available technology and the cost of compliance, the Agency amassed information from a range of sources including: (1) Studies performed by Agency personnel; (2) studies performed under contract to the Agency; (3) submissions by other Federal agencies; (4) submissions by industry; and (5) data in the available literature.

Representatives of the Agency carried out extensive interviews with key members of firms in the construction tractor industry to gain first-hand knowledge of the industry and its products and to obtain and verify technological and financial information. Similar interviews were conducted with key persons in construction, mining, forestry and agricultural trade associations.

3.2 *Product Definition.* Early in the study of wheel and track loaders and wheel and track dozers, it became clear that industry terminology identifies the "dozer" as an attachment mounted on a self-propelled tractor and a "loader" as a complete self-propelled machine with a bucket and attendant lifting apparatus. Accordingly, the Agency has adopted the general term "wheel and crawler tractors" to define the products addressed by this proposed regulation which are primarily used in construction activities to perform loading or dozing operations.

The Agency recognizes that there exist a multiplicity of different types of equipment that meet the above product definition. It has also been determined that some types of this equipment, by reasons such as negligible noise impact on people due to limited use in urban area construction might not be candidates for regulation at this time. Accordingly, the Agency established the following procedure for determining the candidacy of a

given wheel or crawler tractor for regulation:

(1) Determine those machines which perform dozing and/or loading operations;

(2) Determine those machines used primarily for construction related activities;

(3) Determine those machines which are used primarily in other industries and are unlikely to be substituted for construction related machinery.

The Agency determined that regulation of the following machine types is requisite to protect the public health or welfare pursuant to the 5(b)(1) identification:

1. *Crawler tractor*. Tractor which moves on tracks with or without dozer blades, loader buckets or other attachments.

2. *Wheel loader*. Tractor with articulated steering and integral bucket attachment.

3. *Wheel tractor*. Tractor with rigid frame which may have an integral or non-integral loader bucket or other non-integral attachments.

Details regarding the identification of these machines as candidates for regulation, their design features and functional characteristics are contained in the "Background Document".

Machines excluded from this regulation because they have minimal impact on public health and welfare or are not primarily used for loading and dozing operations in construction activity or are the object of further study include:

1. Wheel loaders with integral backhoe.

2. Wheel tractors with integral dozer blade linkage.

3. Skid steer loaders.

4. Wheel and crawler tractors with attachments—other than bucket or blade apparatus—integral to the machine frame.

5. Machines manufactured primarily for agricultural, mining, or logging operations.

6. Trenching equipment—self-propelled machines used exclusively to produce a continuous trench by means of a digging chain or similar device.

3.3 *Technology*. Noise level data for wheel and crawler tractors were collected by EPA from three sources: (1) Submittals from manufacturers, (2) field measurements at a construction site, and (3) an EPA sponsored testing program with the U.S. Army Mobility Equipment Research and Development Command (MERDC), Fort Belvoir, Virginia.

Several manufacturers supplied data on nearly 200 machines, encompassing more than 100 different models. The median noise levels, based on the arithmetic average of the high idle levels measured at orthogonal positions 50 feet (approximately 15 meters) from the sides of the machines, were found to be: (1) Crawler tractors with engine power between 20 and 199 horsepower—80 dBA, (2) crawler tractors with engine power between 200 and 450 horsepower—84 dBA, (3) wheel loaders with engine power between 20 and 249 horsepower—81.5 dBA, (4) wheel loaders with engine power between 250 and 500 horsepower—84.0 dBA, and (5) wheel tractors with engine power 20.0 horsepower or greater—77.0 dBA. The data shows high correlation between noise level and horsepower; that is, the more powerful the machine the greater its noise output.

Diagnostic investigations show that tractor noise consists of the superposition of noise radiated by the (1) engine cooling fan, (2) engine casing, (3) engine exhaust, (4) engine air intake, (5) transmission system, (6) hydraulic system, and (7) track (for crawler vehicles). Of these sources, noise radiated by the cooling fan, engine casing and engine exhaust are the most dominant and therefore require first attention in schemes to quiet the wheel and/or crawler tractor.

Some machine design changes may be necessary to control the fan and/or engine noise. Improved fan shrouds, increased radiator-to-fan and fan-to-engine clearances, and the use of an airfoil type fan configuration, may reduce fan noise by as much as 8 to 10 dBA. Engine casing noise might be reduced by 5 to 6 dBA through the application of acoustically absorbent material to the interior surfaces of the engine compartment. Substantial reductions of engine exhaust noise can be accomplished by the use of improved mufflers; current estimates indicate reductions of between 7 and 10 dBA. When these potential component noise reductions are translated into an overall reduced wheel or crawler tractor noise level, it is estimated that an average reduction of 5 dBA for all types of tractors can be achieved by application of best available technology.

3.4 *Measurement Methodology*. The Agency's noise program endeavors to utilize such measurement standards, particularly those of voluntary standard setting organizations, as may have been developed, validated and in common use today. The Agency recognizes that such voluntary standards have normally been developed for non-regulatory purposes. Consequently, certain modifications of the existing measurement standards are often necessary to meet the Agency's regulatory requirements. In the instant case of wheel and crawler tractors, the Agency has adopted as its measurement methodology, a modification of the Society of Automotive Engineers (SAE) J88a method currently employed by many tractor manufacturers. EPA's modification eliminates both component cycling tests and pass-by tests, thereby permitting smaller test sites and significant reductions in the time required to assess a machine's noise characteristics. In modifying the SAE procedure, the Agency has endeavored to arrive at a simple, low cost test method that will provide the accurate data requisite to product verification at a manufacturer's plant as well as compliance in the field.

The Agency, however, fully recognizes that situations may arise or exist where other measurement methodologies are more appropriate to employ and may approve applications for the use of test procedures which differ from those contained in the regulation so long as the alternate procedures have been demonstrated to correlate with the prescribed procedure.

EPA analysis of data supplied by manufacturers as well as data obtained from tests at construction sites and at Fort Belvoir, Virginia, shows that wheel and crawler tractor noise is not highly directive in the horizontal plane. The noise levels measured in a vertically overhead position were found to average 3.7dBA below those measured in the horizontal plane. It was further determined that the arithmetic average, rather than an energy or logarithmic average, of the four horizontal machine noise levels is most representative of the noise level produced by the machine during a normal operational duty cycle. Inclusion of noise levels measured overhead would reduce the overall arithmetic average noise level of each machine.

Since it is currently general industry practice to direct the exhaust of wheel and crawler tractors vertically upward for both safety and operational purposes, the Agency concluded that the overhead noise levels measured were representative of exhaust noise and no immediate benefits would be gained by manufacturers through the redirection of exhaust. Furthermore, the Agency concluded that the redirection of other machine noise emissions to a vertically upward direction would require major machine redesign. The economics of instituting these major alterations are currently considered a deterrent to such action. Consequently, in the interest of minimizing test time, complexity and cost, the Agency is not proposing an overhead noise level measurement at this time.

These test data also established that reductions in the stationary high idle noise level resulted in a corresponding decrease in moving-mode machine noise levels as determined from SAE J88a test analyses. Hence the proposed standards are based on "stationary mode" noise emission levels.

An important element to the continued effectiveness of these proposed noise emission standards is the "in-use" enforcement by State and local officials. Commensurate with this requirement is an in-situ field test method that is correlatable or equivalent to the EPA standard test procedure. The Agency believes the the proposed standard measurement method for manufacturer compliance testing is equally suitable for in-use testing of wheel and crawler tractors. Comments relating to in-use test procedures are particularly solicited by the Agency.

4.0 Rationale for Standard Selection

In arriving at the proposed standards, the Agency constructed a classification scheme that allows differentiation in the usage of the many different machines that meet the "wheel and crawler tractor" definition vis-a-vis population distribution around construction sites. The Agency's studies show that machines of

lower horsepower (less than 250 horsepower), are used in heavily populated urban areas while the larger machines, because of their size, are not normally used in these area of high population. Furthermore, machines in excess of 500 horespower are of such size as to essentially preclude their transport to and use in areas where significant population impact would result. Thus, by using narrow horespower ranges for classification purposes, the Agency was able to clarify relationships among machine usage, population impact, noise levels, production costs, and quieting technologies.

Studies were conducted to determine the specific contributions of wheel and crawler tractors to (1) the total construction site noise signature; (2) the four categories of construction (residential, commercial, industrial, public works); and (3) the five phases of construction (clearing, excavating, erection, finishing, clean-up).

The Agency then examined the health and welfare benefits that would accrue if wheel and crawler tractor noise levels were reduced to three selected study levels corresponding to (1) the approximate current average sound levels for each class of machine, (2) the levels achieveable with "off the shelf" noise abatement procedures, and (3) the levels that the Agency believes attainable through the application of "best available technology."

In its determination of the population impacted by noise, the Agency has adopted a noise impact method which accounts for varying degrees of personal impact. The benefits attendant to the study levels were assessed in terms of both extensiveness (i.e., the number of people impacted) and the intensiveness (severity) of construction site noise impact. Analyses were also performed to determine the total potential benefits from the regulation of wheel and crawler tractor noise in combination with portable air compressors and medium and heavy trucks, equipment which is already subject to Federal noise emission standards.

Estimates of the costs to quiet this equipment were developed on an engineering cost basis, assuming that incremental reductions from present day average noise levels could be applied to each class of equipment.

The Agency also examined the potential economic impact that may result from imposition of the various levels of noise reduction technology in different time frames. The Agency concluded that an incremental, rather than single step reduction in the noise levels of this equipment, would yield substantial near term benefits and minimum industry dislocations. The selection of lead times for both large and small equipments was based on the possibility of manufacturer changes in horsepower ratings for those equipments around the category breakpoints of 200 and 250 horsepower. Consideration was also given to possible economic impacts on the smaller manufacturers. Thus, to minimize market impacts from possible substitution of unregulated machines for regulated machines during the time frames for these proposed regulations, and to discourage shifting horsepower ratings, the Agency concluded that identical effective dates for all regulated equipments were appropriate.

The Agency believes that the attainment of the estimated health and welfare benefits from reduction in the noise levels of wheel and crawler tractors is dependent on the continued compliance of these products with the Federal not-to-exceed noise emission standard, during actual use. Accordingly, the Agency's implementation of an Acoustical Assurance Period (AAP), as defined in section 2, requires that a product be built so that if it is properly used and maintained it will not exceed the noise level of the standard. This places a burden on several parties. First, it requires the manufacturer to build the product so that it is capable of performing at or below the requisite noise level over the prescribed AAP, and second it depends on the owner/user to maintain and use the product in a manner that will not cause the product's noise level to exceed the standard. (The responsibility of the owner/user is, to the extent covered, discussed in other portions of this preamble; see discussion of anti-tampering infra.)

The Agency considers the concept of an Acoustical Assurance Period necessary beause if the product is not built such that it is even minimally capable of meeting the standard while in use over this initial period when properly used and maintained, the standard itself becomes a nullity and the anticipated health and welfare benefits become illusory.

The Agency considers the concept reasonable because in the information which is available to it, it finds that the noise levels of wheel and crawler tractors do not increase appreciably over the initial 5-years or 9000 operating hours when the product is properly used and maintained. Furthermore, it finds that the capability of designing these products to assure minimal degradation in the noise control features is within the technological capability of the manufacturer and was considered within the technology, maintenance and cost assessments attendant to the standards proposed in this regulation.

In making the determination that the Acoustical Assurance Period for wheel and crawler tractors should be 5-years, or 9000 operating hours, EPA took into account the magnitude and conditions of use of these products, the best maintenance attendant to noise control, and the cost of compliance. Among specific factors considered were:

1. The likelihood that acoustical degradation of noise control features and the resultant increase in noise level above the standard, would not occur during the Acoustical Assurance Period if the manufacturer used proper design and fabrication, quality materials and workmanship;

2. The low maintenance normally required on wheel and crawler tractors during their early years of use;

3. The relative usage cycles of these products during their early years of use.

It is important to understand what AAP means to the manufacturer. The manufacturer will be held responsible for producing a product that is capable of meeting the standard. He can design and build the product at the level of the standard assuming no degradation of noise control features in time, or build it with noise levels somewhat below the standard to account for some degradation with time. But in neither event can the product exceed the standard during the Acoustical Assurance Period.

EPA is also proposing a procedure whereby the manufacturer may account for sound level degradation in his compliance testing and verification program by applying a Sound Level Degradation Factor (SLDF) to the noise emission standard. This may result in a manufacturer-specific production test level which is lower than that specified by the standard. For example, if a manufacturer estimates that the noise level of his product may increase 3 dBA during the AAP the SLDF would be 3dBA. Then, for production verification, the manufacturer would have to test his product at a level which is 3 dBA lower than that specified by the standard. If a product is not expected to degrade during the AAP, the SLDF will be zero. It is EPA's evaluation that in most cases tht SLDF would be near or equal to zero.

Manufacturers would be subject to federal enforcement actions consistent with section 11 of the Noise Control Act if the noise emission level during the AAP exceeds the noise emission standard. It should be clearly understood that this concept does not impose any additional burden on the manufacturer for proper maintenance and use. That is, if the product is not properly maintained and used the manufacturer is relieved of subsequent resulting liability. The responsibility of properly maintaining and using the product rests with the owner/user.

EPA invites comments on the approach it has taken to attain the health and welfare benefits requisite to this regulatory action. EPA also solicits comments on the length of the AAP together with the rationale and data to support the position taken.

5.0 Estimated Impact of Proposed Regulations

5.1 *Health and Welfare.* It is estimated that in excess of 30 million persons are exposed yearly to construction related noise that jeopardizes their health or welfare. Compliance with the proposed standards for wheel and crawler tractors, in combination with existing noise standards for new portable air compressors and medium and heavy trucks, will result in benefits to the population exposed of an approximate 37 percent reduction in the severity and extensiveness of construction site noise im-

pact by the year 1991; this assumes 100 percent turnover of regulated equipment.

5.2 *Cost and Economic Impact.* Estimates of the costs to quiet wheel and crawler tractors may be expressed in terms of increased list price. The Agency's studies indicate that average list price increases will range from 2.3 to 7.2 percent, dependent on machine type and size, resulting in an average list price increase of 4.6 percent for all regulated machines. There are indications that several small firms in the industry, by virtue of their small market share and other operational difficulties, could incur higher manufacturing costs which may result in slightly higher list price increases. The Agency will continue to study these potential impacts because it is desirable to achieve the public health and welfare goals of the Act with minimal disruptive impacts from EPA noise regulation. Because there appears to be significant price elasticity of demand for this equipment, it is estimated that demand could possibly decrease by 3–5 percent, but manufacturer total revenue should remain essentially unchanged.

However, the Agency has noted that the wholesale price of the equipment subject to these proposed standards has increased over 50 percent during the period 1967 to 1974, due in part to general inflation, but more importantly, to increase in unit size and productivity. Unit shipments attendant to these increases declined less than 5 percent.

The increase in annualized costs to users (including increased capital cost, operation and maintenance) through the year 2000 is estimated to be about $228 million or an increase of approximately 3.4 percent. Compared to the estimated $189 billion annual construction receipts for the year 1976, the estimated increase in annualized user cost represents a possible increase in construction costs of approximately 0.12 percent.

Other aspects of potential economic impact due to promulgation of this proposed regulation are:

1. *Impacts on manufacturers.* In order to highlight firms that may be subject to strong economic pressure and possible discontinuance of wheel and/or crawler tractor operations because of the regulation, a capital availability impact model was developed. Seven small and medium firms were singled out by the model as unlikely to obtain sufficient capital to finance noise abatement.

These firms were then contacted individually to determine if any specific factors could mitigate the impact of the regulation. One firm's machines can already comply with the March 1, 1981, standards and the firm expects to achieve the March 1, 1984, standards at costs much lower than the generalized list model predicts. This firm does not anticipate difficulty in compliance. Another firm stated that it does not expect difficulty in obtaining the capital required for abatement. The three remaining firms are presently suffering from undercapitalization and expect that they will have difficulty in the finance of abatement actions.

2. *Impacts on suppliers.* Some component suppliers may increase their sales depending on their ability to reduce the noise emissions of their product and thereby contribute to the reduction in overall machine noises. Furthermore, those suppliers specializing in the manufacture of sound damping and sound absorbent materials and other products required for abatement would be expected to experience increased sales.

3. *Impacts on exports.* Because the technology studied is essentially modular, machines for export can generally be produced without noise abatement equipment; therefore, since equipment destined solely for export is not required to meet the proposed standards, the impact on exports should be minimal.

4. *Impacts on imports.* The proposed regulation will apply to all imported machines. The percentage (approximately 2 percent of total dollar consumption) of wheel and crawler tractors imported is very small. Thus, the proposed regulation should have little to no effect on the U.S. balance of payments. There would not appear to be any adverse competitive impacts on foreign manufacturers in the U.S. markets.

5. *Employment impacts.* The Agency's studies indicate that the proposed regulation would have a negligible overall effect on employment. The existing research and development staffs of major firms and independent suppliers of these services can readily handle the industry's R&D requirements for noise abatement. There may, in fact, be a modest increase in manufacturing labor to design, build, and install the requisite abatement equipment. Should there be decreases in demand for regulated equipment, this potential increase may be offset by a corresponding decline in regular production manufacturing personnel. This latter point is highly uncertain and EPA solicits specific data or information that would indicate whether this proposed regulation would result in decreased sales of regulated equipment.

6. *Effects on gross national product.* The proposed regulation is not expected to directly affect the Gross National Product (GNP). Since the Agency's best estimate of the price elasticity of demand for impacted equipment is −1, it is expected that marginal price increases of equipment would likely be offset by equal percentage decreases in demand, the net result being an unchanged GNP as expressed in current dollars.

The GNP could suffer a slight setback indirectly through declining construction demand if contractors raise prices to offset the added costs of regulated equipment. However, the relatively small impact (less than 0.12 percent), of this proposed regulation on total construction receipts (reference year 1976) leads the Agency to conclude that the effects will not be apparent.

7. *Anticipated government enforcement costs.* It is currently estimated that the annual costs to the Agency for enforcement testing of wheel and crawler tractors will amount to $133,000 commencing in 1980.

6.0 Enforcement

6.1 *General.* The EPA enforcement strategy will place a major share of the responsibility on the manufacturers for pre-sale testing to determine the compliance of wheel and crawler tractors with these regulations and noise emission standards. This approach leaves the manufacturer in control of many aspects of the compliance program and imposes a minimal burden on his business. The effectiveness of this strategy necessitates monitoring by EPA personnel of the tests conducted and actions taken by the manufacturer in compliance with this regulation.

The enforcement strategy proposed in this regulation consists of three parts: (1) Production Verification, (2) Selective Enforcement Auditing, and (3) In-Use Compliance.

6.2 *Production verification (PV).* PV is the testing by a manufacturer of early production models of a category or configuration of the product, and submitting a report of the results to the EPA. This process, using the proposed methodology, gives the EPA some assurance that the manufacturer has the requisite noise control technology in hand and the capability to apply it to the production process. Models selected for testing must have been assembled using the manufacturer's normal assembly method and must be units assembled for sale.

PV does not involve any formal EPA approval or issuance of certificates subsequent to manufacturer testing. The proposed regulation would require that prior to the distribution in commerce of any regulated product, that product must undergo production verification. Section 204.105–2(a) would allow a conditional and temporary waiver of this requirement under special circumstances. Responsibility for testing rests with the manufacturer. However, the Administrator reserves the right to be present to monitor any test (including simultaneous testing with his equipment) or to require that a manufacturer ship products for testing to the EPA's Noise Enforcement Facility in Sandusky, Ohio or to any other site the Administrator may find appropriate.

The basic production unit selected for testing purposes is a product configuration, which is a set of machines grouped together on the basis of parameters proposed in § 204.105–3. The manufacturer would be required to verify production products of each configuration. The regulation allows manufacturers to group configurations into categories based on the parameters proposed in § 204.105–2 and to verify by category. This is done by selecting the configuration in each category that has the highest level of noise emissions at the end of its defined Acoustical Assurance Period (based on tests or on engineering judgment). If when tested in accordance with the test procedure, that configuration does not exceed a noise level defined by the new product standard minus that configuration's expected noise degradation over its Acoustical Assurance Period, then all

configurations in that same category are considered production verified.

The Administrator also reserves the right to test products at a manufacturer's test facility using either his own equipment or the manufacturer's equipment. This will provide the Administrator with an opportunity to determine that the manufacturer's test facility and test equipment meet the specifications proposed in § 204.104. If it is determined that the facility or equipment do not meet these specifications, he may disqualify them from further use for testing under this subpart.

Under § 204.106(a)(1), the Administrator may require that a manufacturer submit to him any product tested or scheduled to be tested pursuant to this regulation or untested products at such time and place as he may designate. If a manufacturer proposes to add a new configuration to his product line or change or deviate from an existing configuration with respect to any of the parameters which define a configuration, the manufacturer must verify the new configuration either by testing a product and submitting data or by filing a report which demonstrates verification on the basis of previously submitted data. A manufacturer may production verify a configuration at any time during the model year or in advance of the model year if he desires.

Production verification is an annual requirement. However, the Administrator, upon request by a manufacturer, may permit the use of data from previous production verification reports for specific configurations or categories.

Production verification performed on the early production models demonstrates that the models conform to the applicable noise emission standard and limits the possibility that non-conforming products are distributed in commerce. Because the possibility still exists that subsequently produced machines may not conform, selective enforcement auditing (SEA) testing is incorporated in these proposed regulations.

6.3 *Selective enforcement auditing.* Selective enforcement auditing (SEA) is the testing of a statistical sample of assembly line (production) products from a specified product configuration or category to determine whether these products comply with the applicable noise emission standards.

SEA testing is initiated when a test request is issued to the manufacturer by the Assistant Administrator for Enforcement or his designated representative. The test request will require the manufacturer to test a batch of products of a specified category or configuration produced at a specified plant. An alternative category or configuration may be designated in the event that products of the first category or configuration are not available for testing.

The SEA plan employs a technique known as inspection by attributes. The basic criterion for acceptance or rejection of a batch is the number of sample products in the batch which meet the standard rather than the average noise level of the products tested.

A sequential batch sampling inspection plan will be used for SEA testing. Sequential sampling differs from single sampling in that small test samples are drawn from consecutive batches and tested sequentially until a statistically significant conclusion can be drawn rather than one large sample being drawn and tested all at once. It offers the advantage of keeping the number of products tested to a minimum when the majority of products are meeting the standards.

A batch will be defined as the number of products produced during a time period specified in the test request. This will allow the Administrator to select batch sizes small enough to keep the number of products to be tested at a minimum and still to draw statistically valid conclusions about the noise emission performance of all products in that category or configuration.

The sampling plans proposed in this regulation are arranged according to the size of the batch from which a sample is to be drawn. Each plan specifies the sample size and the acceptance and rejection number for the established acceptance quality level (AQL). This AQL is the maximum percentage of products exceeding the applicable noise emission standard that for purposes of sampling inspection can be considered satisfactory. An AQL of 10 percent was chosen for wheel and crawler tractors to take into account some test variability. The number of failing products in a sample is compared to the acceptance and rejection numbers for the appropriate sampling plan. If the number of failures is less than or equal to the acceptance number, then there is a high probability that the percentage of non-compling products in the batch is less than the AQL and the batch is accepted. If the number of failing products is greater than or equal to the rejection number, then there is a high probability that the percentage of non-complying products in the batch is greater than the AQL and the batch fails.

Since the sampling strategy involves a multiple sampling plan, in some instances the number of failures in a test sample may not allow acceptance or rejection of a batch so that continued testing may be required unti la decision can be made to either accept or reject a batch.

When a batch sequence is tested and accepted in response to a test request, the testing is terminated. When a batch sequence is tested and rejected, the manufacturer must cease introducing these products into commerce. If the manufacturer desires to continue production and introduction into commerce of the failed configuration (category) he may do so provided under proposed § 204.107–8, he tests all of the products in that category or configuration produced at that plant. He may then distribute the individual products that pass the test.

Regardless of whether a batch is accepted or rejected, failed products would have to be repaired or adjsuted and pass a retest before they can be distributed in commerce. The manufacturer can request a hearing on the issue of noncompliance of the rejected category or configuration.

Since the number of machines tested in response to a test order may vary considerably, a fixed time limit cannot be placed on completing all testing. The proposed approach is to establish a limit on test time per product. It is estimated that manufacturers can test a minimum of two (2) products per day. However, manufacturers are requested to present any data or information that may effect a revision of this estimate.

6.4 *Administrative orders.* Section 11(d)(1) of the Act provides that: "Whenever any person is in violation of section 10(a) of this Act, the Administrator may issue an order specifying such relief as he determines is necessary to protect the public health and welfare."

This provision grants the Administrator discretionary authority to issue remedial orders to supplement the criminal penalties of section 11(a). The proposed regulation provides for such orders in these circumstances: (1) Recall for failure of product to comply with the regulation; (2) cease to distribute products not properly production verified; and (3) cease to distribute products for failure to test.

In addition, 40 CFR 205.4(f) provides for cease to distribute orders for substantial infractions of the regulation requiring entry to manufacturers' facilities and reasonable assistance. These provisions do not limit the Administrator's authority to issue orders, but give notice of cases where such orders would in his judgment be appropriate. In all such cases notice and opportunity for a hearing will be given.

6.5 *Compliance labeling.* The regulation requires that subject wheel and crawler tractors be labeled to provide notice that the product complies with the noise emission standard. The label shall contain a notice of tampering prohibitions. The label also contains the effective date of the standard to which the product complies. The EPA is considering requiring that the actual not-to-exceed level of the standard be stated on the label. This would be intended to aid State and local officials in field testing and enforcement of complimentary in-use standards. Specific comments on the advantages and disadvantages of including the level of the standard on the compliance label are solicited from all concerned parties. A coded rather than actual date of manufacture has been required so as to avoid disruption of marketing and distribution patterns.

6.6 *In-use compliance.* In-use compliance provisions are included in §§ 204.108–1, 204.108–2, and 204.108–3 to ensure that wheel and crawler tractor noise levels are reasonably maintained for the life of the product provided that the machines are properly maintained, used, and repaired. These provisions include a requirement that the manufacturers provide a time of sale warranty to purchasers, assist the Administrator

in defining those acts that constitute tampering, and finally provide purchasers with instructions specifying the maintenance use and repair required to minimize or negate degradation during product use.

6.7 *Acoustical assurance period compliance.* EPA does not specify what testing or analysis a manufacturer must conduct to determine that his products will meet the Acoustical Assurance Period requirement. However, under § 204.-108–4, the manufacturer is required to make a determination regarding the expected noise level increase if any and to maintain records of the test data and/or other information upon which the determination was based. This determination may be based on information such as tests of critical noise producing or abatement components, rates of noise control deterioration, engineering judgments based on previous experience, and physical durability characteristics of the product or product components.

The mechanism used in these regulations to express the amount of expected noise level degradation, if any, is the sound level degradation factor (SLDF). The SLDF is the degradation (increase in A-weighted sound pressure level) which the manufacturer expects will occur on a configuration during the period of time specified as the AAP. The manufacturer must determine an SLDF for each of his product configurations.

To ensure that the products will meet the noise standards throughout the AAP, proposed § 204.102(c)(2) requires the product to emit a time of sale noise level less than or equal to the new product noise emission standard minus the SLDF. In no case shall this noise level exceed the federal noise standard; i.e., a negative SLDF may not be used. Production verification and selective enforcement audit testing both embody this principle.

If the product's noise level does not deteriorate during the AAP when properly used and maintained, the SLDF is 0. If a manufacturer determines that product configuration becomes quieter during the AAP, the configuration must still meet the standard at the time of sale and an SLDF of 0 must be used for that configuration.

It may be that most of the data required to determine an SLDF will already be in the hands of the manufacturer since this information is typically used for general product development work. In any event, EPA is not now requiring long term durability tests to be run as a matter of course.

6.7 *Applicability of previously promulgated regulations.* Manufacturers who will be subject to the proposed regulation must also comply with the general provisions of 40 CFR Part 204 Subpart A. These include the requirements for inspection and monitoring of manufacturer's actions taken in compliance with the proposed regulation and the requirements for requesting and granting exemptions from this proposed regulation. Comments are invited on this point.

A more detailed description of the enforcement regulation may be found in the Background Document.

7.0 Future Intent

The Agency is pursuing a strategy through which major contributors to overall construction site noise will be identified and subsequently regulated. This coordinated approach is necessary because at most sites, a number of different construction equipments are generally operated at the same time and the quieting of only one device may not in itself be sufficient to adequately reduce site noise to a level the Agency believes requisite to protect the public health and welfare.

The Agency intends to continue its investigations pursuant to noise regulatory actions for other construction equipment products. Consequently, the levels specified for the standards in this proposed rulemaking are consistent with the Agency's overall objective to quiet all major noise producing products in order to ultimately reduce the total noise emitted from all construction sites.

8.0 Public Comment

The Agency is committed by statute and policy to public participation in the decision making process for its environmental regulations. That policy encourages and solicits communications and comments to the public docket on all aspects of the proposed regulation, including EPA's determination that wheel and crawler tractors (wheel and track loaders and wheeel and track dozers) are a major source of noise, 40 FR 23107 (May 28, 1975). These contributions are desired from as many diverse views as possible. When received, such information is fully analyzed and where so indicated necessary changes in proposed rules will be made and explained in the final regulation.

All interested parties are invited to attend public hearings concerning the proposed wheel and crawler tractor noise emission regulation. Hearings will be held on August 30, 1977, commencing at 9 a.m., in the Benjamin Franklin Hotel, 9th and Chestnut Streets, Philadelphia, Pennsylvania 19105, and on September 1, 1977, commencing at 9 a.m., in the Ambassador Hotel, 3400 Wilshire Blvd., Los Angeles, California 90010. Persons wishing to present their views at either public hearing should notify the Director, Standards and Regulations Division, no later than July 29, 1977, of their intention to make a statement so that presentations may be scheduled.

It is requested that presentations be limited to 20 minutes to enable all prescheduled persons an opportunity to speak and permit a question and answer period following each presentation. Persons who have not given notice of their intent to speak will be heard following the scheduled statements. It is requested that speakers submit, if practicable, five (5) copies of their statement prior to the hearing date to the Director, Standards and Regulations Division.

9.0 Background Document

The document entitled "Environmental Impact Statement, Economic Impact Statement and Background Document for Noise Emission Standards for Wheel and Crawler Tractors" may be obtained from:

U.S. Environmental Protection Agency, EPA Public Information Center (PM–215), Room 2104D, Waterside Mall, Washington, D.C. 20460.

(Secs. 6, 10, 11, 13, and 15 of the Noise Control Act, Pub. L. 92–574, 86 Stat. 1237, 1242, 1244, and 1245 (42 U.S.C. 4905, 4909, 4910, 4912, and 4914).)

Dated: June 23, 1977.

Barbara Blum,
Acting Administrator.

40 CFR Chapter I is amended by adding Subpart C, reading as follows:

Subpart C—Wheel and Crawler Tractors

Sec.

Authority: Sec. 6 of the Noise Control Act (42 U.S.C. 4905) and additional authority as noted below.

Subpart C—Wheel and Crawler Tractors

§ 204.100 Applicability.

(a) This regulation and the provisions of this subpart shall apply to the following machine types and horsepower ratings used primarily in construction and entered into commerce after the effective dates specified in § 204.102:

(1) Wheel loaders with engines of not less than 20 or greater than 500 horsepower.

(2) Crawler tractors with engines of not less than 20 or greater than 450 horsepower.

(3) Wheel tractors with engines of 20 horsepower or above.

(b) Machines excluded from this regulation include:

(1) Wheel loaders with integral backhoes.

(2) Wheeled tractors with integral dozer blade linkage.

(3) Skid steer loaders.

(4) Wheel and crawler tractors with attachments—other than bucket or blade attachment—integral to the machine frame.

(5) Machines manufactured primarily for agricultural, mining, or logging operations.

(6) Trenching equipment—self-propelled machines used exclusively to produce a continuous trench by means of a digging chain or similar device.

§ 204.101 Definitions.

As used in this subpart, all terms not defined herein shall have the meaning given them in the Act or in other subparts of this part.

(a) "Machines" means any wheel loader, crawler tractor, or wheel tractor.

(b) "Wheel loader" (also known as front end loader) means a tractor with articulated steering which moves on wheels and is designed to operate with an integral bucket attachment. Also included are the engine, transmission, drive train, bucket control system, and all cooling, lubricating, regulating, starting, fuel systems, and all other equipment necessary to constitute a complete self-contained unit.

(c) "Crawler tractor" (also known as track laying or tracked tractor) means a tractor which moves on tracks and which may or may not have an integral blade or bucket attachment used for dozing or loading operations. Also included are the engine, transmission, drive train, blade control system and all cooling, lubricating, regulating, starting, and fuel systems, and all other equipment necessary to constitute a complete self-contained unit.

(d) "Wheel tractor" (also known as utility or industrial tractor) means a tractor with rigid frame which moves on wheels and which may have as an integral component a loader bucket attachment or which can be fitted with other non-integral attachments. Also included are the engine, transmission, drive train, attachment control system, and all cooling lubricating, regulating, starting, and fuel systems, and other equipment necessary to constitute a self-contained unit.

(e) "Major machine component" means the primary device(s) and/or other attachments to the machine to perform the construction operations for which it is sold.

(f) "Simulated major machine component" means a representative version of the major machine component which is not attached to the machine. It shall be located at the same geometric position from the machine surface as the major machine component in a neutral position. The simulated machine component represents the major machine component in geometry and acoustic characteristics at the time of the noise emission test.

(g) "Horsepower" means net flywheel horsepower.

(h) "Model year" means the manufacturer's annual production period which includes January 1 of such calendar year: *Provided*, That if the manufacturer has no annual production period, the term "model year" shall mean the calendar year.

(i) "Machine configuration" means the basic classification unit of a manufacturer's product line and is comprised of all produce designs, models or series which are identical in all material aspects with respect to the parameters listed in § 204.105–3.

(j) "Category" means a group of machine configurations which are identical in all material aspects with respect to the parameters listed in paragraph (c)(1)(i) of § 204.105–2.

(k) "Production verification product" means any product selected for testing, tested, or verified pursuant to the production verification requirements of this subpart.

(l) "Noise emission test" means a test conducted pursuant to the measurement methodology specified in § 204.104.

(m) "Inspection criteria" means the rejection or acceptance numbers associated with a particular sampling plan.

(n) "Acceptable Quality Level (AQL)" means the maximum percentage of failing products that, for purposes of sampling inspection, can be considered satisfactory as a process average.

(o) "Batch" means the collection of machines of the same category or configuration, as designated by the Administrator in a test request, from which a batch sample is to be drawn and inspected to determine conformance with the acceptability criteria.

(p) "Batch sample" means the collection of machines of the same category or configuration which is drawn from a batch from which test samples are drawn.

(q) "Batch sample size" means the number of products of the same category or configuration in a batch sample.

(r) "Test sample" means the collection of machines from the same category or configuration which is drawn from the batch sample and which will receive noise emission tests.

(s) "Batch size" means the number, as designated by the Administrator in test request, of products of the same category or configuration in a batch.

(t) "Test sample size" means the number of products of the category or configuration in a test sample.

(u) "Acceptance of a batch sequence" means that the number of rejected batches in the sequence is less than or equal to the acceptance number as determined by the appropriate sampling plan.

(v) "Rejection of a batch sequence" means that the number of rejected batches in a sequence is equal to or greater than the rejection number as determined by the appropriate sampling plan.

(w) "Acceptance of a batch" means that the number of non-complying machines in the batch sample is less than or equal to the acceptance number as determined by the appropriate sampling plan.

(x) "Rejection of a batch" means the number of non-complying products in the batch sample is equal to or greater than the rejection number as determined by the appropriate sampling plan.

(y) "Shift" means the regular production work period for one group of workers.

(z) "Failing product" means that the noise emissions of the product when measured in accordance with the applicable procedures, as delineated in this subpart, exceed the applicable standard.

(aa) "Acceptance of a product" means that the noise emissions of the product when measured in accordance with the applicable procedure, as delineated in this subpart, conform to the applicable standard.

(bb) "Test machine" means a machine in the test sample or a production verification machine.

(cc) "Tampering" means those acts prohibited by section 10(a)(2) of the Act.

(dd) "Exhaust System" meas the system comprised of components which provide for enclosed flow of exhaust gas from engine exhaust port to the atmosphere.

(ee) "Low Noise Emission Product" means any product which emits noise in amounts significantly below the levels specified in noise emission standards under the applicable regulations.

(ff) "Noise Control System" includes any part, component or system the primary purpose of which is to control or cause the reduction of noise emitted from a product.

(gg) "Sound Level Degradation Factor (SLDF)" means the increase in A-weighted sound level which the product configuration is projected to undergo during the Acoustical Assurance Period when properly maintained and used.

(hh) "Warranty" means the warranty required by section 6(d)(1) of the Act.

§ 204.102 Noise emission standards.

(a) Wheel and crawler tractors manufactured after the following effective dates shall be designed, built and equipped so that they will not produce A-weighted sound pressure levels in excess of the levels indicated below:

Machine type	Horsepower	Level (dBA)	Effective date
Crawler tractors.	20 to 199	77	Mar. 1, 1981
		74	Mar. 1, 1984
Do	200 to 450	83	Mar. 1, 1981
		80	Mar. 1, 1984
Wheel loaders	20 to 249	79	Mar. 1, 1981
		76	Mar. 1, 1984
Do	250 to 500	84	Mar. 1, 1981
		80	Mar. 1, 1984
Wheel tractors	20+	74	Mar. 1, 1984

(b) The standards set forth in paragraph (a) of this section refer to the sound emission levels as determined in accordance with the procedures prescribed in § 204.104.

(c) In-Use Standard. (1) Following the effective date of the standard, wheel and crawler tractors manufactured to meet the appropriate standard listed in § 204.102(a) shall continue to meet the standard for an Acoustical Assurance Period (AAP) of 5 years or 9,000 operating hours after sale to the ultimate purchaser, provided that the product is properly maintained and used in accordance with manufacturers' recommendation and provided that there has been no tampering with noise control components.

(2) At the time of product verification (PV) testing in § 204.105 and selective enforcement auditing (SEA) testing in § 204.107, new wheel and crawler tractors must comply with the standards set forth in paragraph (a) of this section minus the sound level degradation factor (SLDF) developed in accordance with § 204.108–4.

(d) Low Noise Emission Product. For the purpose of Low-Noise-Emission Product (LNEP) Certification pursuant to 40 CFR Part 203, wheel and crawler tractors subject to this subpart which are procured after the dates listed below, shall not emit A-weighted sound pressure levels in excess of the levels indicated when such levels are determined in accordance with the procedures prescribed in § 204.104. LNEP products must meet all requirements of paragraph (c) (1) and (2) of this section.

Machine type	Horsepower	Level (dBA)	Procurement date
Crawler tractors	20 to 199	72	Mar. 1, 1980
		69	Mar. 1, 1983
Do	200 to 450	78	Mar. 1, 1980
		75	Mar. 1, 1983
Wheel loaders	20 to 249	74	Mar. 1, 1980
		71	Mar. 1, 1983
Do	250 to 500	79	Mar. 1, 1980
		75	Mar. 1, 1983
Wheel tractors	20+	69	Mar. 1, 1980

(Secs. 10, 15 of the Noise Control Act (42 U.S.C. 4909, 4914).)

§ 204.103 Maintenance of records; submittal of information.

(a) Except as otherwise provided, the manufacturer of any new product subject to any of the standards or procedures prescribed in this subpact shall establish, maintain and retain the following adequately organized and indexed records:

(1) "General records." (i) Identification and description of category and configuration parameters of all products comprising the manufacturer's product line for which testing is required under this subpart and the identification and description of all devices incorporated into the product for the purpose of noise control and attenuation.

(ii) A description of all procedures other than those contained in this regulation used to perform noise tests on any test machine.

(iii) A record of the calibration of the acoustical instrumentation as required by § 204.104.

(iv) A record of the date of manufacture of products subject to this part, keyed to the serial number or other coded identification contained on the label affixed to each product pursuant to § 204.-105–8(a).

(2) Individual records for test products: (i) A complete record of all noise emission tests performed for PV and SEA (except tests performed by EPA directly), including all individual worksheets and/or other documentation relating to each test, or exact copies thereof.

(ii) A record and description of all repairs, maintenance and other servicing performed on PV and SEA test products, giving the date and time of the maintenance or service, the reason for it, the person authorizing it, and the names of supervisory personnel responsible for the conduct of the maintenance or service.

(3) A properly filed production verification report following the format prescribed by the Administrator in § 204.-105–4 fulfills the requirements of (a)(1)(i), (ii), (iii), (iv) and (a)(2) (i) and (ii) of this paragraph.

(4) All records required to be maintained under this part shall be retained by the manufacturer for a period of three (3) years from the production verification date. Records may be retained as hard copy or alternatively reduced to microfilm, punch cars, etc., depending on the record retention procedures of the manufacturer; however, if an alternate method is to be used, all required information shall be retained relative to the alternative method.

(b) The manufacturer shall, pursuant to a request made by the Administrator, submit to the Administrator the following information with regard to new machine production:

(1) Number of products, by category or configuration, scheduled for production for the time period designated in the request.

(2) Number of products, by category or configuration, produced during the time period designated in the request.

(Sec. 13 of the Noise Control Act (42 U.S.C. 4912).)

§ 204.104 Test procedures.

(a) "General." The test site, measurement equipment, conditions for testing and measurement procedures in this section shall be employed to demonstrate compliance with the standards set forth in § 204.102.

(b) "Test Site Description." (1) The location employed for measuring noise during noise compliance testing shall consist of an open site above a hard reflecting plane. The reflecting plane shall consist of a surface of smooth concrete or smooth sealed asphalt and shall extend one (1) meter beyond each microphone location. No acoustically reflecting surface such as a building, sign board, hillside, etc. shall be located within thirty (30) meters of any microphone location.

(2) The reflecting plane described above shall be flat within ±0.05 meters.

(c) "Measurement equipment." The measurement equipment used for noise standard compliance testing shall consist of the following or its equivalent:

(1) Sound level meter and microphone system conforming to the Type I requirements of American National Standards Institute (ANSI) S1.4. 1971, "Specification for Sound Level Meters."

(2) A windscreen, to be employed when the wind speed exceeds 11km/hr, which does not affect the A-weighted sound levels in excess of ±0.5 dB.

(3) A sound level calibrator accurate to within ±0.5 dB shall be used to calibrate the acoustic measurement system consisting of, but not limited to, a microphone and sound level meter.

(4) An anemometer or other device accurate to within ±10 percent shall be used to measure wind velocity.

(5) A tachometer or other indicator accurate to within ±2 percent shall be used to measure machine engine speed.

(6) A barometer accurate to within ±5 percent shall be used to measure atmospheric pressure.

(7) A thermometer accurate to within ±1 degree shall be used to measure ambient temperature.

(d) "Measurement equipment calibrations." All measurement equipment shall be calibrated annually using the methodology prescribed by the manufacturer of the equipment.

(e) "Test conditions." Noise standard compliance testing shall be carried out under the following conditions:

(1) Zero rain or other precipitation;

(2) Wind speed less than 19 km/hr;

(3) No observer shall be located within 2 meters in any direction of any microphone location, nor shall any person be located between the test machine and microphone(s);

(4) The reflecting plane, described in (b) above, shall be free of flowing or standing water, snow or other covering or any extraneous material such as gravel;

(5) Sound levels produced by the test machine shall be at least 10 dB greater than the test site background sound level.

(f) "Test machine." The test machine must be operated with all component drive systems in the neutral position. The machine shall be operated in accordance with the manufacturer's specfied temperature, oil pressure and other performance standards that are representative of continuous service. The machine shall be operated at maximum rated or governed rpm (high-idle) as specified by the manufacturer. All cooling air vents in the engine enclosure and other service doors and/or inspection panels, normally open during machine operation, shall be fully open during all sound level measurements. Service doors and/or inspection panels, normally closed during machine operation, shall be closed during all sound level measurements. The test machine shall be configured with either the major machine component or a simulated major machine component located in the lowered (at rest) position

with the bottom edge of the component resting on the reflecting plane described in (b) above. Antivibration material may be installed between the major machine component and the reflecting plane to prevent spurious vibration generated noise levels.

(g) "Microphone locations." Four microphone locations should be employed to acquire machine sound levels at the right, left, front and back of the test machine. Each microphone shall be located on axis 15±0.1 meters from the test machine at a height of 1.2±0.1 meters above the reflecting plane. The right, left, front and back refer to the respective sides of an imaginary box that would just fit over the test machine, minus its major machine component discussed in (f) above.

(h) "Data required." The following data shall be acquired during noise emission standard compliance testing:

(1) The A-weighted ambient sound level, at each microphone location, prior to operation of the test unit.

(2) A-weighted sound levels with the indicating meters set for slow response shall be measured at each microphone location as defined in paragraph (g) during test machine operation as described in paragraph (f).

(3) All other non-acoustical data to complete Table IV of Appendix I.

(i) "Calculation of average sound level." The average A-weighted sound level shall be calculated by the following method:

$$\bar{L}=\frac{1}{N}\sum_{i=1}^{N} L_i$$

where:

$\bar{L}$=Average A-weighted sound level, in decibels.
L_i=A-weighted sound level, in decibels.
i=1, 2, 3, 4, an index denoting microphone location.
N=Number of measuring positions.

(j) The Administrator may approve applications from manufacturers for the use of test procedures which differ from those contained in this subpart so long as the alternate procedures have been demonstrated to correlate with the prescribed procedure. To be acceptable, alternate testing procedures shall be such that the test results obtained will identify all those test units which would not comply with the noise emission limit prescribed in § 204.102 when tested in accordance with the procedures contained in § 204.104 (a)–(h). Tests conducted by manufacturers under approved alternate procedures may be accepted by the Administrator for all purposes, including, but not limited to, production verification testing and selective enforcement audit testing.

(k) "Presentation of information". All information required by this section may be recorded using the format recommended on the Noise Data Sheet shown in Appendix I, Table IV.

§ 204.105 Product verification.

§ 204.105–1 General requirements.

(a) Every new product manufactured for distribution in commerce in the United States which is subject to the standards prescribed in this subpart and not exempted in accordance with Subpart A, § 204.5:

(1) Shall be verified in accordance with production verification procedures described in this subpart;

(2) Shall be represented in a Production Verification Report, as required by § 204.105–4 of this subpart.

(3) Shall be labeled in accordance with the requirements of § 204.105–8 of this subpart; and

(4) Shall conform to the applicable noise emission standards established in § 204.102 of this subpart.

(b) The requirements of paragraph (a) of this section apply to new products at the time they first conform to the definition of products in these regulations. The responsibility for complying with the requirement of paragraph (a) of this section rests with the manufacturer of the new product at the time the product first conforms to the definition of wheel loader, crawler, tractor, or wheel tractor in these regulations.

(c) Subsequent manufacturers of a new product, which conforms to the definition of products in these regulations when received by them from a prior manufacturer, need not fulfill the requirements of paragraph (a) (1), (2) or (3) of this section where such requirements have already been complied with by a prior manufacturer provided that such subsequent manufacturing does not constitute tampering as defined pursuant to § 204.108–2.

(Secs. 10, 13 of the Noise Control Act (42 U.S.C. 4909, 4912).)

§ 204.105–2 Production verification: compliance with standards.

(a) (1) Prior to distribution in commerce of products of a specific configuration, the manufacturer of such products shall verify such configuration in accordance with the requirements of this subpart: Except, that production verification of a configuration is automatically and conditionally waived by the Administrator without request by a manufacturer for a period of 45 consecutive days from the date of distribution in commerce by a manufacturer of the first product of that configuration in order to enable a manufacturer to distribute products in commerce pending compliance thus avoiding disruption of the manufacturing process: *Provided*, That a manufacturer conducts the necessary tests required in paragraphs (b) and/or (c) of this section as soon as weather conditions at a manufacturer's test facility permit after distribution in commerce of the first product of a configuration and that such conditions are documented by the manufacturer and provided to the Administrator on request. Failure to test on such first day will result in automatic and retroactive recession of the waiver and will render the manufacturer liable for illegal distribution of products in commerce.

(2) At the completion of any 45 day period the conditional waiver granted under paragraph (a) (1) of this section is rescinded for that configuration unless the manufacturer has complied with the requirements of paragraph (b) and/or (c) of this section as appropriate: Except, that upon application by a manufacturer and a showing that the weather conditions at the manufacturer's test facility or other conditions beyond the control of the manufacturer made it impossible to conduct the required testing and that documentation of such conditions are submitted by the manufacturer, the Administrator, at his option, may extend, for a period not to exceed 45 days, conditional production verification for a configuration to enable the manufacturer to comply with the requirements of paragraph (b) and/or (c) of this section or he may require pursuant to § 204.107 that the manufacturer ship the test machine to the EPA test facility for testing by the Administrator.

(b) Production verification requirements with regard to each machine configuration consist of:

(1) Testing in accordance with § 204.105–7 of a machine selected in accordance with § 204.105–5.

(2) Compliance of the test machine with the applicable standard specified in § 204.102 when tested in accordance with § 204.104.

(3) Submission of a production verification report pursuant to § 204.105–4.

(c) (1) In lieu of testing products of every configuration as described in paragraph (b) of this section, the manufacturer may elect to verify the configuration based on representative testing, the requirements of which consist of:

(i) Grouping configurations into a category will be determined by a separate combination of at least the following parameters (a manufacturer may use more parameters):

(A) Engine Type
Gasoline
Diesel
Other

(B) Engine Manufacturer

(C) Engine Horsepower

(D) Engine Configuration (e.g., L–6, V–8, etc.

(ii) (A) Identifying the configuration within each category which emits the highest sound level in dBA at the end of its defined AAP based on best technical judgment emission test data, or both.

(B) If two or more configurations would emit the same sound level described in (ii) (A) above, then identifying the configuration that emits the highest sound level when distributed into commerce.

(iii) Testing in accordance with § 204.104 of a product selected in accordance with § 204.105 which must be a product of the configuration which is identified pursuant to subparagraph (ii) of this paragraph as having the highest A-weighted sound pressure level (estimated or actual) within the category at the end of the specified AAP.

(iv) Compliance of the test machine with the applicable standard when tested in accordance with § 204.104; and

(v) Submission of a production verification report pursuant to § 204.105–4.

(2) Where the requirements of paragraph (c) (1) of this section are com-

plied with, all those configurations contained within a category are considered represented by the tested machine and are considered to be production verified.

(3) (i) Where the manufacturer tests a product configuration which has not been identified as having the highest sound pressure level of a category, at the end of its acoustical assurance period but all other requirements of paragraph (c)(1) of this section are complied with, all those configurations contained within that category which are determined to have a sound pressure level at the end of the AAP no greater than the tested product are considered to be represented by the tested product and are considered to be production verified; however, a manufacturer must product verify according to the requirements of (b)(1) and/or (c)(1) of this section any configurations in the subject category which have a higher A-weighted sound pressure level at the end of the AAP than the product configuration tested.

(ii) Where more than one configuration would emit the highest sound level after the AAP and the manufacturer tests a configuration among them which has been determined as not having the highest sound level of a category at the time of sale, but all other requirements of paragraph (c)(1) of this section are complied with, all those configurations contained within that category which are determined to have sound pressure levels, at the time of sale, no greater than the tested product configuration are considered to be production verified; however, a manufacturer must production verify according to the requirements of (b)(1) and/or (c)(1) of this section any configurations in the subject category which have a higher sound pressure level at the time of sale than the product configuration tested.

(d) A manufacturer may elect to production-verify using representative testing, pursuant to paragraph (c) of this section, all or part of his product line.

(e) The manufacturer may, at his option, proceed with any of the following alternatives with respect to any product determined not in compliance with applicable standards:

(1) Delete that configuration from the production-verification report. Configurations so deleted may be included in a later report under § 204.105–4. However, in the case of representative testing a new test product from another configuration must be selected and production verified according to the requirements of paragraph (c) of this section, in order to production verify the category represented by the noncompliant machine.

(2) Modify the test product and demonstrate by testing that it meets applicable standards. All modifications and test results shall be reported in the production-verification report. The manufacturer shall modify all production products of the same configuration in the same manner as the test machine before distribution into commerce.

(f) Upon request by the Director, Noise Enforcement Division, the manufacturer shall notify said Director of any production-verification testing scheduled by the manufacturer pursuant to this section so that EPA Enforcement Officers may be present to observe and monitor such testing or conduct the testing in lieu of the manufacturer.

(Sec. 13 of the Noise Control Act (42 U.S.C. 4912).)

§ 204.105–3 Configuration identification.

A separate product configuration shall be determined by each combination of the following parameters:

(a) Category parameters listed in § 204.105–2 and

(b) Exhaust System Configuration: (1) Single vertical; (2) Dual vertical; (3) Single horizontal; (4) Dual horizontal; (5) Exhaust pipe dimensions; (6) Manufacturer.

(c) Air Induction System: (1) Natural; (2) Turbocharged; (3) Air intake system design specifications and manufacturer.

(d) Cooling System: (1) Fan: (A) Diameter, (B) Maximum rpm; (2) Coolant Capacity; (3) Fan Shroud Design.

(e) Engine Displacement.

(f) Product Attachment Design Specifications: (1) Blade; (2) Bucket; (3) Backhoe; (4) Winch; (5) Ripper; (6) Other.

(g) Special Application Enclosures: (1) Undercarriage guards: (A) Crankcase, (B) Transmission; (2) Radiator protective cover; (3) Radiator cold weather screen; (4) Engine enclosure; (5) Operator cockpit: (A) Rollover protection, (B) Complete cab enclosure; (6) Track guide cover; (7) Tire splash cover; (8) Other enclosures affecting noise signatures.

(h) Power to Ground Transfer: (1) Wheel specifications; (2) Track specifications.

(Sec. 13 of the Noise Control Act (42 U.S.C. 4912).)

§ 204.105–4 Production verification report: required data.

(a) Prior to distribution in commerce of any product to which this regulation applies, the manufacturer shall submit a production verification report to the Director, Noise Enforcement Division (EN–387), U.S. Environmental Protection Agency, Washington, D.C. 20460, unless product verification is waived in accordance with § 204.105–2(a) (1) and (2). A manufacturer may choose to submit separate production verification reports for different parts of his product line.

(b) The report shall be signed by an authorized representative of the manufacturer and shall include the following:

(1) The name, location and description of the manufacturer's noise emission test facilities which meet the specification of 204.104 and have been utilized to conduct testing pursuant to this subpart C: Except, that a test facility that has been described in a previous submission under this subpart need not again be described but must be identified as such.

(2) A description of normal predelivery maintenance procedures.

(3) Description of all product configurations, as determined in accordance with § 204.105–3, to be distributed in commerce by the manufacturer, including the sound level degradation factor for each configuration and a list identifying or defining any device or element of design (including its location and method of operation) incorporated into products for the purpose of noise control and any device that affects noise emission from the product and does not operate during the normal operating modes of the product. The manufacturer may satisfy the product configuration description requirements of this paragraph by submitting as part of the production-verification report a copy of his technical sales data literature that describes his product line including options: Provided, that this literature is supplemented with any additional information to fulfill the requirements of this section. If a manufacturer elects to production-verify pursuant to § 204.105–2(c) the configuration within each category, which is estimated to have the highest A-weighted sound level at the end of the specified AAP shall be identified. The manufacturer may estimate the average sound level based on his best technical judgment and/or data. The criteria used to estimate each sound level must be stated with the estimates.

(4) The following information for each noise emission test conducted:

(i) The completed data sheet required by § 204.104 for all official tests conducted in accordance with § 204.105–7 including, for each invalid test, the reasons for invalidation.

(ii) A completed description of any preparation, maintenance or testing which was performed on the test product and which will not be performed on all other production products.

(iii) The reason for replacement where a replacement machine was necessary, and test results, if any, for replaced machines.

(5) A completed description of the sound data acquisition system if other than those specified in § 204.104.

(6) The following statement and endorsement:

This report is submitted pursuant to section 6 and section 13 of the Noise Control Act of 1972. All testing for which data is reported herein is conducted in strict conformance with applicable regulations under 40 CFR Part 204 et. seq. All the data reported herein is a true and accurate representation of such testing. All other information reported herein is, to the best of _____ (company name) knowledge, true and accurate. I am aware of the penalties associated with violations of the Noise Control Act of 1972 and the regulations thereunder.

_____
(Authorized representative)

(c) Where a manufacturer elects to submit separate production-verification reports for portions of his product line as provided for in paragraph (a) of this section, information provided in previous reports need not be resubmitted: Except, that information necessary to update or make current previously submitted information must be submitted.

(d) Any change with respect to information reported pursuant to this subpart shall be reported as soon as the information becomes available.

(Sec. 13 of the Noise Control Act (42 U.S.C. 4912).)

§ 204.105–5 Test sample selection.

Test products of a configuration for which production-verification testing is required by § 204.105–2 shall be a product of the subject configuration which has been assembled using the manufacturer's normal production processes and which will be sold or offered for sale in commerce.

(Sec. 13 of the Noise Control Act (42 U.S.C. 4912).)

§ 204.105–6 Test preparation.

(a) Prior to the official test, the test product selected in accordance with § 204.105–5 shall not be prepared, tested, modified, adjusted, or maintained in any manner unless such adjustments, preparation, modification and/or tests are part of the manufacturer's prescribed manufacturing and inspection procedures, and are documented in the manufacturer's internal machine assembly and inspection procedures or unless such adjustments and/or tests are required or permitted under this subpart or are approved in advance by the Administrator. The manufacturer may perform adjustments, preparation, modification and/or tests normally performed at the port-of-entry by the manufacturer to prepare the machine for delivery to a dealer or customer: *Provided*, That such adjustments, preparation, modification or tests are documented in the production verification report.

(b) Equipment or fixtures necessary to conduct the test may be installed on the product: *Provided*, That such equipment or fixtures shall have no effect on the noise emissions of the machine as determined by measurement methodology.

(c) In the event of product malfunction (i.e., failure to start), the manufacturer may perform the maintenance that is necessary to enable the product to operate in a normal manner: *Provided*, That such maintenance is documented and reported in the final report prepared and submitted in accordance with this subpart.

(d) No quality control, quality assurance testing, assembly or selection procedures shall be used on the test product or any portion thereof, including parts and subassemblies, that will not be used during the production and assembly of all other products of the category which will be distributed in commerce, unless such procedures are required or permitted under this subpart or are approved in advance by the Administrator.

(Sec. 13 of the Noise Control Act (42 U.S.C. 4912).)

§ 204.105–7 Testing.

(a) The manufacturer shall conduct one valid test in accordance with the test procedures specified in § 204.104 of this subpart for each machine selected for verification testing.

(b) No maintenance will be performed on test machines except as provided for by § 204.105–6.

(c) In the event a product is unable to complete the noise test, the manufacturer may replace the product. Any replacement product will be a production product of the same configuration as the replaced product and will be subject to all the provisions of these regulations. Any replacement shall be reported in the production verification report including the reason for the replacement.

(d) In the event a product fails to comply with the standards of this subpart when tested in accordance with the procedures specified in paragraph (a) of this section, the manufacturer may proceed in accordance with § 204.105–2 (e) of this subpart.

(Sec. 13 of the Noise Control Act (42 U.S.C. 4912).)

§ 204.105–8 Labeling: compliance.

(a) (1) The manufacturer of any product subject to the standards prescribed in § 204.102 shall, at the time of manufacture, affix a permanent, legible label, of the type and in the manner described below, containing the information hereinafter provided, to all such machines to be distributed in commerce.

(2) A plastic or metal label shall be welded, riveted or otherwise permanently attached to a readily visible position.

(3) The label shall be affixed by the product manufacturer, who has verified such product, in such a manner that it cannot be removed without destroying or defacing the label, and shall not be affixed to any piece of equipment which is easily detached from such product.

(4) The label shall contain the following information lettered in the English language in block letters and numerals, which shall be of a color that contrasts with the background of the label:

(i) The label heading: Product Noise Emission Control Information;

(ii) Full corporate name and trademark of manufacturer;

(iii) Date of manufacture, which may consist of a serial number or code in those instances where records specified in section 204.103(a)(1)(iv) are maintained.

(iv) The statement:

This product, when new, is warranted not to exceed the applicable standard effective on (month/year) when tested as prescribed by USEPA. Tampering with any product noise control device or element of design (see owner's manual) or use of this product after such tampering is prohibited by Federal law.

(b) Any product manufactured solely for use outside the United States shall be clearly labeled "For Export Only".

(Sec. 13 of the Noise Control Act (42 U.S.C. 4912).)

§ 204.105–9 Addition of, changes to and deviation from a product configuration during the year.

(a) Any change to a configuration with respect to any of the parameters stated in § 204.105–3 shall constitute the addition of a new and separate configuration or category to the manufacturer's product line.

(b) (1) When a manufacturer introduces a new category or configuration to his product line, he shall proceed in accordance with § 204.105–2.

(2) If the configuration to be added can be grouped within a verified category and the new configuration is estimated to have a lower sound pressure level than a previously verified configuration within the same category, the configuration shall be considered verified: Provided, that the manufacturer submits a report pursuant to section 204.105–4 with respect to such configuration.

(Sec. 13 of the Noise Control Act (42 U.S.C. 4912).)

§ 204.105–10 Production verification based on data from previous year.

Production verification of each configuration will be required at the beginning of each model year except that in certain instances, the Administrator, upon request by the manufacturer, may permit the use of production-verification data for a specific configuration from previous production-verification reports. Considerations relevant to his decision may include, but are not limited to:

(a) The level of the standard in effect for the model year in question;

(b) Performance based on production-verification data for previous years;

(c) Performance based on data obtained from selective enforcement testing during previous model years;

(d) The number and type of noise emission design changes incorporated in the new models that effect the noise emission level of that model.

(Sec. 13 of the Noise Control Act (42 U.S.C. 4912).)

§ 204.105–11 Cessation of distribution.

(a) If a category or configuration is found to be in nonconformity with these regulations by reason of failure to be properly production-verified, as required by § 204.105–2, the Administrator may issue an order to the manufacturer to cease to distribute in commerce products of that category or configuration: *Provided, however*, That such an order shall not be issued if the manufacturer has made a good faith attempt to properly production-verify the category configuration. The burden of establishing such good faith shall rest with the manufacturer.

(b) Any such order shall be issued after notice and opportunity for a hearing.

(Sec. 11, of the Noise Control Act (42 U.S.C. 4910).)

§ 204.106 Testing by the Administrator.

(a) (1) For the purpose of conducting production verification testing in lieu of the manufacturer or conducting selective enforcement auditing, the Administrator may require that any product tested or scheduled to be tested pursuant to these regulations or any untested products be submitted to him, at such place and time as he may designate.

(2) The Administrator may specify that he will conduct such testing at the manufacturer's facility, in which case instrumentation and equipment of the type required by these regulations shall be made available by the manufacturer for test operations. The administrator

may conduct such tests with his own equipment, which shall equal or exceed the performance specifications of the instrumentation or equipment specified in these regulations.

(b) (1) If, based on tests conducted by the EPA, or other relevant information, the Administrator determines that the test facility does not meet the requirements of §204.104 (b) and (c), (including any alternate procedures that may be approved under § 204.104(j)), he will notify the manufacturer in writing of his determination and the reasons therefore.

(2) After any notification issued under paragraphs (b)(1) has taken effect, no data thereafter derived from such test facility will be acceptable for purposes of this subpart and the Administrator may issue an order to the manufacturer, with respect to the product category or configuration in question, to cease to distribute in commerce products of such category or configuration: Except that any such order shall be issued only after notice and opportunity for a hearing. Such notification may be included in any notification under paragraph (b)(1) of this section. A manufacturer may request that the Administrator grant a hearing; such request shall be made not later than 15 days, or other such period as may be allowed by the Administrator, subsequent to notification of the Administrator's intent to issue an order to cease to distribute.

(3) The manufacturer may request in writing that the Administrator reconsider the determination in (b)(1) of this section based on data or information which indicates that changes have been made to the test facility and such changes have resolved the reasons for disqualification.

(4) The Administrator will notify the manufacturer of his determination with regard to the requalification of the test facility within 10 days of the manufacturer's request for reconsideration pursuant to paragraph (b)(3) of this section.

(c) (1) Whenever the Administrator conducts a test on a test product, the results of that test shall constitute the official test data for that product.

(2) The Administrator may accept the manufacturer's test data in lieu of his data upon a showing by the manufacturer that the data, acquired under paragraph (a) are erroneous and that the manufacturer's data are correct.

(Secs. 11, 13 of the Noise Control Act (42 U.S.C. 4910, 4912).)

§ 204.107 Selective enforcement auditing requirements.

§ 204.107–1 Test request.

(a) The Administrator will request all testing under this subpart by means of a test request addressed to the manufacturer.

(b) The test requests will be signed by the Assistant Administrator for Enforcement or his designee. The test request will be delivered by an EPA Enforcement Officer to the plant manager or other responsible official as designated by the manufacturer.

(c) The test request will specify the product category or configuration selected for testing, the batch selected for testing, the batch size, the manufacturer's plant or storage facility from which the products shall be selected, and the time at which a product shall be selected. The test request will also provide for situations in which the selected configuration or category is unavailable for testing. The test request may include an alternative category or configuration selected for testing in the event that products of the first specified category or configuration are not available for testing because the products are not being manufactured at the specified plant, are not being manufactured during the specified time, or are not being stored at the specified plant or storage facility.

(d) Any manufacturer shall, upon receipt of the test request:

(1) If he produces less than 4 of the specified category or configuration of product per given period of time specified in the test request, test every product produced in two consecutive batches in accordance with these regulations and the conditions specified in the test request.

(i) If one or more of the products fails to meet the standard, the batch is rejected.

(ii) If one batch is rejected, the batch sequence is rejected.

(2) If he produces 4 or more of the specified category or configuration of product per given period of time as specified in the test request, selected and test a batch sample of machines from consecutively produced batches of the machine category or configuration specified in the test request in accordance with these regulations and the conditions specified in the test request.

(e) (1) Any testing conducted by the manufacturer pursuant to a test request shall be initiated within such period as is specified with the test request: Except, that such initiation may be delayed for increments of 24 hours or one business day where ambient test site weather conditions in any 24 hour period do not permit testing: *Provided*, That ambient test site weather conditions for that period are recorded.

(2) The manufacturer shall complete noise emission testing on a minimum of two products per day unless otherwise provided for by the Administrator or unless ambient test site conditions only permit the testing of a lesser number: *Provided*, That ambient test site weather conditions for that period are recorded.

(3) The manufacturer shall be allowed 24 hours to ship products from a batch sample from the assembly plant to the testing facility if the facility is not located at the plant or in the close proximity to the plant: Except, that the Administrator may approve more time based upon a request by the manufacturer accompanied by a satisfactory justification.

(f) The Administrator may issue an order to the manufacturer to cease to distribute into commerce products of a specified category or configuration being manufactured at a particular facility if:

(1) The manufacturer refuses to comply with the provisions of a test request issued by the Administrator pursuant to this section; or

(2) The manufacturer refuses to comply with any of the requirements of this section.

(g) A cease-to-distribute order shall not be issued under paragraph (f) of this section if such refusal is caused by conditions and circumstances outside the control of the manufacturer which renders it impossible to comply with the provisions of a test request or any other requirements of this section. Such conditions and circumstances shall include, but are not limited to, any uncontrollable factors which result in the temporary unavailability of equipment and personnel needed to conduct the required tests, such as equipment breakdown or failure, or illness of personnel, but shall not include failure of the manufacturer to adequately plan for and provide the equipment and personnel needed to conduct the tests. The manufacturer will bear the burden of establishing the presence of the conditions and circumstances required by this paragraph.

(h) Any such order shall be issued only after a notice and opportunity for a hearing.

(Sec. 6, 11, 13 of the Noise Control Act (42 U.S.C. 4910, 4912).)

§ 204.107–2 Test product selection.

(a) Products comprising the batch sample which are required to be tested pursuant to a test request in accordnace with this subpart will be selected in the manner specified in the test request from a batch of products of the category or configuration specified in the test request. If the test request specifies that products comprising the batch sample must be selected randomly, the random selection will be achieved by sequentially numbering all of the products in the batch and then using a table of random numbers to select the number of products as specified in (c) of this section based on the batch size designated by the Administrator in the test request. An alternative random selection plan may be used by a manufacturer, provided that such a plan is approved by the Administrator. If the test request does not specify that test products must be randomly selected, the manufacturer shall select test products consecutively. The provisions of § 204.105–7 (b)(c) shall also pertain to this section.

(b) The Acceptable Quality Level is 10 percent. The appropriate sampling plans associated with the designated AQL are contained in Appendix I, Table II.

(c) The appropriate batch sample size will be determined by reference to Appendix I, Tables I and II. A code letter is obtained from Table I based on the batch size designated by the Administrator in a test request. The batch sample size will be equal to the maximum cumulative sample size for the appropriate code letter obtained from Table I plus an additional 10 percent rounded off to the next highest number.

(d) The products comprising the test sample will be selected randomly, the batch sample using the same random selection plan as in paragraph (a) of this section. Test sample size will be determined by using Table II.

(e) The test products of the category or configuration selected for testing shall have been assembled by the manufacturer for distribution in commerce using the manufacturer's normal production process.

(f) Unless otherwise indicated in the test request, the manufacturer will select the batch sample from the production batch, next scheduled after receipt of the test request, of the category or configuration specified in the test request.

(g) Unless otherwise indicated in the test request, the manufacturer shall select the product designated in the test request for testing.

(h) At their discretion, EPA Enforcement Officers, rather than the manufacturer, may select the products designated in the test request.

(i) The manufacturer will keep on hand all products in the batch sample until such time as the batch is accepted or rejected in accordance with § 2041.-07-6: Except, that products actually tested and found to be in conformance with these regulations need not be kept.

(Sec. 13 of the Noise Control Act, (42 U.S.C. 4912).)

§ 204.107–3 Test product preparation.

(a) Prior to the official test, the test product selected in accordance with section 204.107–2, will be prepared in accordance with section 204.105–6.

(Sec. 13 of the Noise Control Act, (42 U.S.C. 4912))

§ 204.107–4 Test procedures.

(a) The manufacturer shall conduct one valid test in accordance with the test procedures specified in § 204.104 for each product selected for testing pursuant to this subpart.

(b) No maintenance will be performed on test products except as provided by § 204.107–3. In the event a product is unable to complete the emission test, the manufacturer may replace the product. Any replacement product will be a production product of the same configuration as the replaced product. It will be randomly selected from the batch sample and will be subject to all the provisions of these regulations.

(Sec. 13 of the Noise Control Act, (42 U.S.C. 4912))

§ 204.107–5 Reporting of test results.

(a) (1) The manufacturer shall submit a copy of the test report for all testing conducted pursuant to § 204.107 at the conclusion of each twenty-four period during which testing is done.

(2) For each test conducted the manufacturer will provide the following information:

(i) Configuration and category identification where applicable

(ii) Sound Level Degradation Factor

(iii) Type, year, make, assembly date, and model of product

(iv) Product serial number

(v) Test results by serial numbers.

(3) The first test report for each batch sample will contain a listing of all serial numbers in that batch.

(b) In the case where an EPA Enforcement Officer is present during testing by this subpart, the written reports requested in paragraph (a) of this section may be given directly to the Enforcement Officer.

(c) Within five days after completion of testing of all products in a batch sample, the manufacturer shall submit to the Administrator a final report which will include the information required by the test request in the format stipulated in the test request in addition to the following:

(1) The name, location and description of the manufacturer's noise emission test facilities which meet the specifications of § 204.104 and were utilized to conduct testing reported pursuant to this section: Except, that a test facility that has been described in a previous submission under this subpart need not again be described but must be identified as such.

(2) A description of the random product selection method used, and the name of the person in charge of the random number selection, if the product test request specifies a random number product selection.

(3) The following information for each test conducted;

(i) The completed data sheet required by section 204.104 for all noise emission tests including, for each invalid test, the reason for invalidation.

(ii) A complete description of any modification, repair, preparation, maintenance, and/or testing which was performed on all other production products.

(iii) The test results for any replaced product.

(4) The following statement and endorsement:

This report is submitted pursuant to section 6 and section 13 of the Noise Control Act of 1972. All testing for which data is reported herein was conducted in strict conformance with applicable regulations under 40 CFR Part 204, et seq. All the data reported herein are a true and accurate representation of such testing. All other information reported herein is to the best of (----------)
Company name
knowledge, true and accurate. I am aware of the penalties associated with violations of the Noise Control Act of 1972 and the regulations thereunder.

(authorized representative)

(Sec. 13 of the Noise Control Act, (42 U.S.C. 4912))

§ 204.107–6 Acceptance and rejection of batches.

(a) A failing product is one whose measured sound level is in excess of the sound level equal to the applicable noise emission standard set forth in § 204.102 minus the SLDF as determined in § 204.-108–4 for the category or configuration being tested.

(b) A batch from which a batch sample is selected will be accepted or rejected based upon the number of failing products in the batch sample. A sufficient number of test samples will be drawn from the batch sample until the cumulative number of failing products is less than or equal to the acceptance number, or greater than or equal to the rejection number appropriate for the cumulative number of machines tested. The acceptance and rejection number listed in Appendix I, Table II at appropriate code letter obtained according to § 204.107–2 will be used in determining whether the acceptance or rejection of a batch has occurred.

(c) Acceptance or rejection of a batch takes place when a decision that a product is a failing machine is made on the last product required to make a decision under paragraph (b) of this section.

(Sec. 13 of the Noise Control Act, (42 U.S.C. 4912))

§ 204.107–7 Acceptance and rejection of batch sequence.

(a) The manufacturer will continue to inspect consecutive batches until the batch sequence is accepted or rejected. The batch sequence will be accepted or rejected based on the number of rejected batches. A sufficient number of consecutive batches will be inspected until the cumulative number of rejected batches is less than or equal to the sequence acceptance number, or greater than or equal to the sequence rejection number appropriate for the number of batches inspected. The acceptance and rejection numbers listed in Appendix I, Table III at the appropriate code letter obtained according to § 204.107–2 will be used in determining whether the acceptance or rejection of a batch sequence has occurred.

(b) Acceptance or rejection of a batch sequence takes place when the decision is made on the last product required to make a decision under paragraph (a) of this section.

(c) If the batch sequence is accepted, the manufacturer will not be required to perform any additional testing on machines from subsequent batches pursuant to the initiating test request.

(d) The Administrator may terminate testing earlier than required in paragraph (b) based request by the manufacturer accompanied by voluntary cessation of distribution in commerce, from all plants of products of the configuration in question: *Provided*, That once production is reinitiated the manufacturer must take the action described in § 204.107–9 (a)(1) and (a)(2) prior to distribution in commerce of any product from any plant of the product category or configuration in question.

(Sec. 13 of the Noise control Act. (42 U.S.C. 2912))

§ 204.107–8 Continued testing.

(a) If a batch sequence is rejected in accordance with paragraph (b) of § 204.107–7, the Administrator may require continued 100 percent testing of

products of that category or configuration produced at that plant.

(b) The Administrator will notify the manufacturer in writing of his intent to require any 100 percent testing of products pursuant to paragraph (a) of this section.

(c) Any tested product which demonstrates conformance with the applicable standard may be distributed into commerce.

(d) Any knowing distribution into commerce of a product which does not comply with the applicable standards is a prohibited act.

(Sec. 13 of the Noise Control Act, (42 U.S.C. 4912))

§ 204.107–9 Prohibition of distribution in commerce: manufacturer's remedy.

(a) The Administrator will permit the cessation of continuous testing under § 204.107–8 once the manufacturer has taken the following actions:

(1) Submits a written report to the Administrator which identifies the reason for the noncompliance of the products, describes the problem, and describes the proposed quality control and/or quality assurance remedies to be taken by the manufacturer to correct the problem or follows the requirements for an engineering change pursuant to § 204.105–9; and

(2) Demonstrates that the specified product category or configuration has passed a retest conducted in accordance with § 204.107 and the conditions specified in the initial test request.

(b) Any product failing the prescribed noise emission tests conducted pursuant to this Subpart C may not be distributed in commerce until necessary adjustments or repairs have been made and the product passes a retest.

(c) No products of a rejected batch which are still in the hands of the manufacturer may be distributed in commerce unless the manufacturer has demonstrated to the satisfaction of the Administrator that such products do in fact conform to the regulation: Except, that any machine that has been tested and does, in fact, conform with this regulation may be distributed in commerce.

(Secs. 11, 13 of the Noise Control Act, (42 U.S.C. 4910))

§ 204.108 In-use requirements.

§ 204.108–1 Warranty.

(a) The manufacturer of a product who is required to production verify under this part shall include in the owner's manual or any other information supplied to the ultimate purchaser, the following statement:

Noise Emissions Warranty

The manufacturer warrants to the first person who purchases this product for purposes other than resale and each subsequent purchaser that this product was designed, built and equipped to conform at the time of sale to such first purchaser with all applicable U.S. EPA noise control regulations.

This warranty is not limited to any particular part, component, or system of the product. Defects in the design, assembly, or in any part, component, or system of the product which, at the time of sale to such first purchaser, cause noise emission levels to exceed Federal standards are covered by this warranty for the life of the product.

(b) Not later than the date of submission of the production-verification report required by § 204.105–4, the manufacturer shall submit to the Administrator two (2) copies of the written noise emission warranty required by paragraph (a) of this section and two (2) copies of all other information provided to the ultimate purchaser which could reasonably be construed as impacting on the warranty.

(c) Not later than ten (10) days after dissemination, the manufacturer shall submit two (2) representative copies of all information of a general nature, or modifications thereto, which is provided to dealers, zone representatives, or other agents of the manufacturer regarding the administration and application of the noise emission warranty. Information regarding noise emission warranty claims which is provided to a dealer or representative in response to a particular warranty claim or dealer inquiry is not considered to be information of a general nature, if such information does not receive broad dissemination to dealers.

(d) All information required to be forwarded to the Administrator pursuant to this section shall be addressed to: Director, Noise Enforcement Division (EN–387), U.S. Environmental Protection Agency, Washington, D.C. 20460.

(Sec. 13 of the Noise Control Act, (42 U.S.C. 4912))

§ 204.108–2 Tampering.

(a) For each model year and for each configuration of products covered by this part, the manufacturer shall submit to the Administrator a list of those acts which, in the manufacturer's estimation, might be done to the product in use, on more than an occasional basis, and result in an increase in noise emission levels above the standards prescribed in section 204.102. The manufacturer should indicate, wherever possible, the amount of increase in noise emission level.

(b) The above information shall be submitted to the Administrator within adequate time prior to the introduction into commerce of each configuration to allow for the development and printing of tampering lists, as provided in paragraphs (c) and (d) of this section.

(c) On the basis of the above information, the Administrator will develop a list of acts which, in the Administrator's judgment, constitute the removal or the rendering inoperative, totally or partially, other than for purposes of maintenance, repair, or replacement, of noise control devices or elements of design of the product. This list shall be provided to the manufacturer by the Administrator within 30 days of the date on which the information required in paragraph (a) of this section is submitted by the manufacturer, and shall be included in the statement to the ultimate purchaser, as required by paragraph (d)(2) of this section. If the list is not provided by the Administrator within 30 days of the date on which the information required in paragraph (a) of this section is submitted, the manufacturer shall include only the statement in paragraph (d)(1) of this section, until such time as the list has been provided and the owner's manual is reprinted for other purposes.

(d) The manufacturer shall include in the owner's manual the following information:

(1) The statement:

TAMPERING WITH NOISE CONTROL SYSTEM PROHIBITED

Federal law prohibits the following acts or the causing thereof:

(1) The removal or rendering inoperative, by any person, other than for purposes of maintenance, repair, or replacement, of any device or element of design incorporated into any new product for the purpose of noise control, prior to its sale or delivery to the ultimate purchaser or while it is in use, or (2) the use of the product after such device or element of design has been removed or rendered inoperative by any person.

(ii) The statement:

Among those acts included in the prohibition against tampering are the acts listed below.

Immediately following this statement, the manufacturer shall include the list developed by the Administrator under paragraph (c) of this section.

(e) Any act included in the list prepared pursuant to paragraph (c) of this section is presumed to constitute tampering; however, in any case in which a prescribed act has been committed and it can be shown that such act resulted in no increase in the A-weighted sound level of the product or that the product still meets the noise emission standard of section 204.102, such act will not constitute tampering.

(f) The provisions of this section are not intended to preclude any State or local jurisdiction from adopting and enforcing its own prohibitions against the removal or rendering inoperative of noise control systems on machines subject to this part.

(g) All information required by this section to be furnished to the Administrator shall be sent to the following address: Director, Noise Enforcement Division (EN–387), U.S. Environmental Protection Agency, Washington, D.C. 20460.

(Secs. 10, 13, of the Noise Control Act (42 U.S.C. 4909, 4912).

§ 204.108–3 Inspections for maintenance, use, and repair.

(a) (1) The manufacturer shall provide to the ultimate purchaser of each product covered by this subpart written instructions for the proper maintenance, use, and repair of the product in order to provide reasonable assurance of the elimination or minimization of noise emission degradation throughout the life of the product.

(2) The purpose of the instructions is to inform purchasers and mechanics of those acts necessary to reasonably assure

that degradation of noise emission levels is eliminated or minimized during the life of the product. Manufacturers shall prepare the instructions with this purpose in mind. The instructions shall be clear and, to the extent practicable, written in non-technical language.

(3) The instructions shall not be used to secure an unfair competitive advantage. They shall not restrict replacement equipment to original manufacturer equipment or service to dealer service, unless such manufacturer makes public the performance specifications on such equipment.

(b) For the purpose of encouraging proper maintenance, the manufacturer shall provide a record or log book which shall contain a schedule for the performance of all required noise emission control maintenance. Space shall be provided in this record book so that the purchaser can note what maintenance was done, by whom, where and when.

(c) Not later than the date of submission of the production verification report required by § 204.105–4, the manufacturer shall submit to the Administrator two (2) copies of the maintenance instructions (including the record book) required by paragraphs (a) and (b) of this section.

(d) The Administrator will require modifications to the instructions if they are not sufficient to fulfill the requirements of paragraph (a) of this section.

(e) Information required to be submitted to the Administrator pursuant to this section, shall be sent to the following address: Director, Noise Enforcement Division (EN–387), U.S. Environmental Protection Agency, Washington, D.C. 20460.

(Sec. 13 of the Noise Control Act (42 U.S.C. 4912))

§ 204.108–4 Sound level degradation factor (SLDF) and retention of durability data.

(a) Each manufacturer responsible for compliance with the standards specified in § 204.102 shall develop a Sound Level Degradation Factor for each of his product configurations utilizing the records compiled under subsection (b). The SLDF is defined as the increase in A-weighted sound level, which the product configuration is projected to undergo during the specified AAP when the product is properly used and maintained.

(b)(1) The manufacturer shall establish and maintain records which demonstrate the increase in noise level which will occur for each product configuration during the specified AAP.

(2) The records may include, but need not be limited to, the following:

(i) Durability data and actual noise testing on critical noise producing or attenuating components.

(ii) Sound level deterioration curves on the entire product.

(iii) Data from products in actual use.

(c) The SLDF is to be used in all Production Verification testing and Selective Enforcement Audit testing to determine compliance.

(d) If the manufacturer determines the product's sound level will not increase during the AAP when properly used and maintained, the SLDF is 0.

(e) If a manufacturer determines that a product's sound level does not increase, but rather decreases with use, yielding a negative SLDF, he shall use zero as the SLDF in all testing under this regulation, but shall determine and record the actual SLDF.

(Sec. 13 of the Noise Control Act, (42 U.S.C. 4912))

§ 204.109 Recall of non-complying machines.

(a) Pursuant to section 11(d)(1) of the Act, the Administrator may issue an order to the manufacturer to recall and repair or modify any products distributed in commerce which are not in compliance with this subpart.

(b) A recall order issued pursuant to this section shall be based upon a determination by the Administrator that products of a specified category or configuration have been distributed in commerce which do not conform to the regulation. Such determination may be based on:

(1) A technical analysis of the noise emission characteristics of the category or configuration in question; or

(2) Any other relevant information including test data.

(c) For the purpose of this section, noise emissions may be measured by any test prescribed in § 204.104 for testing prior to sale or any other test which has been demonstrated to correlate with the prescribed test procedure.

(d) Any such order to recall shall be used after notification and opportunity for a hearing.

(e) All costs, including labor and parts, associated with the recall and repair or modification of noncomplying products under this section shall be borne by the manufacturer.

(f) This section shall not limit the discretion of the Administrator to take any other actions which are authorized by the Act.

(Sec. 11 of the Noise Control Act, (42 U.S.C. 4910))

APPENDIX I

TABLE I—SAMPLE SIZE CODE LETTERS

Batch size:	Code letter
4 to 8	A
9 to 15	B
16 to 25	C
26 and larger	D

TABLE II.—*Sampling for plans for inspecting batches*

Sample size code letter	Test sample	Test sample size	Cumulative test sample size	Batch inspection criteria: Acceptance number	Batch inspection criteria: Rejection number
A	1st	4	4	0	1
B	1st	3	3	0	1
C	1st	3	3	0	2
	2d	3	6	1	2
D	1st	2	2	(1)	2
	2d	2	4	(1)	2
	3d	2	6	0	2
	4th	2	8	0	3
	5th	2	10	1	3
	6th	2	12	1	3
	7th	2	14	2	3

[1] Batch acceptance not permitted at this sample size.

TABLE III.—*Batch sequence plans*

Sample size code letter	Number batches	Cumulative number batches	Sequence inspection criteria: Acceptance number	Sequence inspection criteria: Rejection number
A	2	2	1	(2)
	2	4	2	4
	2	6	3	5
	2	8	4	5
B	2	2	0	(2)
	2	4	1	4
	2	6	2	5
	2	8	3	5
	2	10	4	6
	2	12	5	6
C	2	2	(2)	2
	2	4	0	3
	2	6	0	3
	2	8	1	3
	2	10	2	4
	2	12	3	4
D	2	2	0	2
	2	4	1	3
	2	6	2	4
	2	8	3	4

[1] Batch sequence rejection not permitted for this number of batches.
[2] Batch sequence acceptance not permitted for this number of batches.

TABLE IV
WHEEL AND CRAWLER TRACTOR NOISE EMISSION TEST DATA SHEET

Test No. _____

I. Machine Characteristics

Manufacturer: _____ Model No. _____ Serial No. _____
Engine Manufacturer: _____ Model No. _____ Serial No. _____
Rated H.P. _____ RPM; Maximum Governed Engine Speed at No. Load ____

Attached Simulated Major Component: Dozer Blade, Loader Bucket (Strike out inappropriate items)

Component Description: Dozer Blade; height _____ m, width _____ m:
Loader Basket; Capacity _____ m^3

II. Test Conditions

Manufacturer's Test Site Identification and Location: _____
Measurement Surface Composition: _____
Ambient Sound Levels (a) Beginning of Test; _____ dBA
(b) End of Test; _____ dBA

III. Instrumentation

Microphone Manufacturer: _____ Model No. ____ Serial No. _____
Sound Level Meter Manufacturer: _____ Model No. ____ Serial No. _____
Acoustical Calibrator Manufacturer: ____ Model No. ____ Serial No. _____
Other: _____ Model No. _____ Serial No. _____

IV. Sound Level Data (dB Reference 2 x 10^{-5} pascals)

A-Weighted Sound Levels (dBA)

Stationary Machine Test	Machine	Reference		Surface	Calculated Average Level	Average Plus SLDF	Notes
	Front	L.H. Side	Rear	R.H. Side			
High Idle No Load							
Test Engine Speed							
SLDF							

V. Test Personnel and Witnesses

Tested by: _____ Date: _____
Reported by: _____ Date: _____
Checked by: _____ Date: _____

[FR Doc.77-19533 Filed 7-8-77;8:45 am]

federal register

MONDAY, JULY 11, 1977
PART VII

DEPARTMENT OF COMMERCE

Economic Development Administration

■

ROUND II OF THE LOCAL PUBLIC WORKS CAPITAL DEVELOPMENT AND INVESTMENT PROGRAM

Amendment of Regulations

Title 13—Business Credit and Assistance

CHAPTER III—ECONOMIC DEVELOPMENT ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 317—ROUND II OF THE LOCAL PUBLIC WORKS CAPITAL DEVELOPMENT AND INVESTMENT PROGRAM

Amendment of Regulations

AGENCY: Economic Development Administration, Department of Commerce.

ACTION: Final rule.

SUMMARY: On Friday, May 27, 1977, EDA published in the FEDERAL REGISTER regulations for round II of the Local Public Works program. These amendments respond to comments received on the May 27th publication and correct and clarify various provisions of those regulations. Each change is explained in the Supplementary Information section of this document.

EFFECTIVE DATE: July 11, 1977. Comments by: August 10, 1977.

ADDRESSES: Send comments to: Assistant Secretary for Economic Development, U.S. Department of Commerce, Room 7800B, Washington, D.C. 20230.

FOR FURTHER INFORMATION CONTACT:

James F. Marten, U.S. Department of Commerce, Room 7009, Washington, D.C. 20230. (202-377-5441)

SUPPLEMENTARY INFORMATION: The following is a brief explanation of each of the amendments to 13 CFR Part 317. These numbers correspond to the numbers of the amendments.

1. This change corrects an error made in the publication process. It deletes a paragraph not contained in the orginal Part 317 as submitted to the FEDERAL REGISTER.

2. This change amends the table of contents to include two new sections added by these amendments.

3. This amendment deletes Indian tribes from the definition of the term "general purpose unit of local government" in § 317.2. The effect of this change is to make the general procedure regarding endorsement of projects inapplicable for Indian tribes.

4. This change corrects an error made in the publication process. The correct citation in subparagraph (A) is (b)(1)(i), not (b)(i) as was printed.

5. Section 317.15(e) is clarified by adding a new sentence which informs applicants that projects which have dollar amounts exceeding the appropriate planning targets are not irrevocably ineligible. Such projects may be approved if the applicant provides the funding for those costs which exceed the amount of the planning target.

6. Section 317.31(a) is amended to delete its reference to § 317.53(c)(2). The reference is no longer appropriate because of changes made to the cited paragraph.

7. Section 317.35(n) is revised to follow more closely the language of section 107 of Pub. L. 94-369, as amended by Pub. L. 95-28.

8. Section 317.42(c) is amended by the addition of new language which more fully explains the procedures used to determine planning targets for Indian tribes.

9. Section 317.50(a)(4) is clarified by the addition of two new paragraphs. The first describes the procedure for the reallocation of applicant planning target funds which fall below the 75,000 dollar minimum in those cases where no county government exists. The second paragraph explains EDA's procedure for reallocating county government planning target funds which fall below the 75,000 dollar minimum planning target level.

10. Section 317.51 is amended in three places. The first change clarifies the types of ineligible primary cities which can participate in the pocket of poverty planning target. New language in § 317.51(a)(1) precludes the participation of a primary city which did not receive a planning target because it received excessive funding during round I.

The second change implements a policy decision to allow the Assistant Secretary to waive the 8.5 percent unemployment rate requirement for a pocket of poverty area if no applications, or an insufficient number of applications, meeting this criterion have been submitted from a particular State. This authority is found in new paragraph (a)(2)(i).

The third change amends subsection (c) by making the administrative reallocation of planning target funds permissive rather than mandatory.

11. This change corrects an error made in the publication process. The word "stablished" in the second sentence of § 317.52(a) is corrected to read "established".

12. Section 317.53 is amended in several places. Paragraphs (a), (b) and (c) are amended by changing a reference in each of them. Paragraph (c)(1) is revised to clarify the method used to determine sub-State applicant planning targets. Paragraph (c)(2) introduces a refinement in the procedures for distributing surplus funds in balance of county and county without primary city areas. Paragraph (d) is deleted and existing paragraph (e) is renumbered as paragraph (d). This paragraph is also revised by making the administrative reallocation of planning target funds permissive rather than mandatory.

13. This change adds a new § 317.54 which discusses the procedures to be followed in allocating surplus funds.

14. This change adds a new § 317.55 which contains the procedures for school district participation in applicant planning targets.

15. Section 317.61 is amended in two places. § 317.61(a), which discusses funding Indian tribe applications, is changed to conform it to the previously discussed change to § 317.42(c).

Section 317.61(b), which describes project funding from the procedural error set-aside, is amended by the addition of a new paragraph. This new language limits the dollar amount of funding for projects under this authority to the amount specified in the project's original application.

16. Section 317.62(b) is amended to state more accurately the requirements which must be met before a State government can locate a project in an ineligible area.

17. Section 317.63 is revised to reflect the previously discussed changes regarding sub-State applicant planning targets and school district participation.

18. Section 317.64 is amended by deleting the phrase "in any geographic region of a State receiving the minimum statutory allocation".

19. Section 317.71(d)(2) is corrected by changing the word "application" in the second line of that paragraph to "applicant" and changing the word "he" in the third line to "it".

20. Section 317.80(a) is corrected by changing the word "even" in the first line of that subsection to "event".

Because these amendments relate to an EDA grant program, they are exempted from the procedures described in section 553 of the Administrative Procedure Act (5 U.S.C. 553). However, in the spirit of public policy set forth in that Act, interested persons may submit written suggestions regarding these amendments to the Assistant Secretary for Economic Development at the above address.

Consideration has been given as to whether matters set forth in these amendments constitute a major proposal with an inflationary impact within the meaning of OMB Circular A-107 and the interpretative guidelines issued by the Department of Commerce. A determination has been made that these amendments do not constitute a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Accordingly, 13 CFR Part 317 is amended as follows:

1. By correcting the preamble section of the regulations. The second column of page 27432 is corrected by deleting the following paragraph:

To increase the program's efficiency decision-making in the establishing priorities and the selection of projects.

2. By amending the table of contents by adding the following new material immediately after "317.53 Sub-State applicant planning targets.":

Sec.
317.54 Reallocation of funds.
317.55 School district participation in planning targets.

3. By revising the definition of the term "general purpose unit of local government" in § 317.2 to read as follows:

§ 317.2 Definitions.

* * * * *

"General purpose unit of local government" means any city, county, town, parish, or any other "unit of general local

government" as included within the definition of that term by section 104 of the Intergovernmental Corporation Act of 1968 (42 U.S.C. 4201 et seq.)

* * * * *

4. By correcting § 317.13(b)(1)(i)(A) to read as follows:

§ 317.13 Types of grants.

* * * * *

(b) * * *

(1) * * *

(i) * * *

(A) For the funding of revived applications during round II, the Assistant Secretary may waive the requirement of paragraph (b)(1)(i) where:

* * * * *

5. By adding the following new sentence to § 317.15(e) to read as follows:

§ 317.15 Ineligible projects.

* * * * *

(e) * * *. Such projects are ineligible unless the applicant funds those costs which exceed the amount of the planning target.

6. By amending § 317.31(a) to read as follows:

§ 317.31 New applications.

(a) New applications shall be received where necessary to use a State's allocation or an applicant's planning target or an Indian tribe set-aside.

* * * * *

7. By revising § 317.35(n) to read as follows:

§ 317.35 Certifications.

* * * * *

(n) It contains certification that special consideration, consistent with existing applicable collective bargaining agreements and practices, shall be given to the employment on the project of qualified disabled veterans, as defined in 38 U.S.C. 2011(1), and to qualified Vietnam-era veterans, as defined in 38 U.S.C. 2011(2)(A).

8. By adding new paragraphs (3) and (4) and (5) to § 317.42(c) to read as follows:

§ 317.42 Indian tribe set-aside.

* * * * *

(c) * * *

(3) Indian tribe planning targets will reflect the total six (6) billion dollar Local Public Works program authorization. Projects which were selected for funding during round I of the program will be deducted from the applicant's planning target.

(4) These planning targets will be ranked nationally and projects will be selected from high ranking targets until the amount of the set-aside is expended.

(5) Certain eligible Indian tribe applicants will not receive planning targets due to the procedure described in paragraphs (c)(3) and (c)(4) of this section which will result in insufficient funds.

* * * * *

9. By adding the following new paragraphs (A) and (ii) to § 317.50(a)(4):

§ 317.50 General considerations.

(a) * * *

(4) * * *

(i) * * *

(A). If no county government exists, the funds will be administratively reapportioned.

(ii) County government planning target funds below the 75,000 dollar minimum will be administratively reapportioned by the Assistant Secretary.

* * * * *

10. By revising § 317.51(a)(1), adding a new paragraph (i) to paragraph (a)(2) and amending paragraph (c) to read as follows:

§ 317.51 State planning target.

* * * * *

(a) * * *

(1) Projects to be funded from this deduction must be located in a city which did not receive a planning target, except that a primary city which did not receive a planning target because its round I approvals exceeded its projected planning target is not eligible to submit pocket of poverty applications.

(2) * * *

(i) In any State receiving a planning target under paragraph (a) of this section, the Assistant Secretary may waive the 8.5 percent unemployment rate requirement if he determines that an insufficient number of applications meeting this criterion have been submitted.

* * * * *

(c) In the event applications have not been filed to exhaust the planning targets established under this section by September 1, 1977, such planning targets may be administratively reapportioned within the State by the Assistant Secretary.

11. By correcting § 317.52(a) to read as follows:

§ 317.52 Sub-State area planning targets.

* * * * *

(a) EDA has established planning targets for eligible sub-State areas, subject to the provisions of § 317.50(a), based on the sub-State 65/35 formula, which is the relative need of an area as determined by its number of unemployed persons compared to the number of unemployed persons in all eligible areas of the State and its unemployment rate compared to the lower of 6.5 percent or the State unemployment rate. Planning targets have been established in this manner for the following types of areas:

(i) Primary city;

(ii) Balance of county;

(iii) County with no primary cities.

* * * * *

12. By revising § 317.53 to read as follows:

§ 317.53 Sub-State applicant planning targets.

EDA has divided the sub-State area planning targets into sub-State applicant planning targets. Subject to the provisions of § 317.50. EDA has established these applicant planning targets for the following types of applicants.

(a) *County government.* This planning target will be determined for each State based on the relative activity of county governments as determined by the dollar value of county government applications filed with EDA during round I compared to the total dollar value of applications filed by all applicants, with the exception of Indian tribes, in that State during round I. Subject to the provisions regarding school district participation as set forth in § 317.55, this planning target shall be available for funding projects of the county government.

(b) *Primary city government.* Subject to the provisions of § 317.55 regarding school district participation and subject to any incorporated areas in the city which will share in the planning target, this planning target shall be available for funding projects of the city government.

(c) *Non-primary cities/townships located in balance of county and county without primary city areas.* The funds allocated to balance of county and county without primary city areas have been further distributed to non-primary cities and townships within these areas as applicant planning targets.

(1) These applicant planning targets are based on the unemployment data of the non-primary city or township calculated by EDA according to the census share method and according to the sub-State 65/35 formula. Where unemployment data is unavailable, the planning target funds will be administratively reapportioned.

(2) Normally, EDA has established these planning targets for non-primary city/township applicants which submitted applications in round I and which meet the requirements of § 317.50(a)(4). When an area's planning target funds exceed applications on file by 25 percent or 200,000 dollars, whichever is greater, the surplus funds will be reallocated as set forth in § 317.54.

(3) Subject to the provisions of § 317.55 regarding school district participation, these applicant planning targets shall be available for projects of the non-primary city or township.

(d) In the event applications have not been filed to exhaust the planning targets established under this section by September 1, 1977, such planning target funds may be administratively reapportioned by the Assistant Secretary.

13. By adding a new § 317.54 to read as follows:

§ 317.54 Reallocation of funds.

Surplus funds described at § 317.53(c)(2) will be reallocated as follows:

(a) If the amount of the surplus is sufficient, all pending applications in the balance of county or county without primary city area will be funded.

(1) After all pending applications have been funded, any further surplus will be reallocated to the county government.

(b) If the amount of the surplus is not sufficient to approve all pending applications, non-primary city/township

applicants with applications will be ranked in order in accordance with the 65/35 formula as set forth in § 317.52(a) and funded until the surplus is expended.

(1) Any surplus remaining after the last project is approved will be allocated to the next ranking applicant with a project.

(2) In the event two or more projects rank equally, the surplus will be divided equally among them.

(c) If there are no pending applications in the balance of county or county without primary city area, the surplus will be administratively reallocated to the county government.

14. By adding a new § 317.55 to read as follows:

§ 317.55 School district participation in planning targets.

(a) Subject to the provisions of this section, school districts may share in the planning targets of:

(1) Primary cities or non-primary cities/townships; and

(2) County governments.

(b) In order to participate in these planning targets, the school district must have authority under local law to file an application.

(c) For a school district to share in the planning target of a primary city or non-primary city/township, the school district project must principally serve the residents of the primary city or non-primary city/township, e.g., at least 50 percent of the students served by a school project must be residents of that primary city or non-primary city/township.

(1) A school district project may be eligible to share in the planning target of more than one non-primary city/township if it principally serves those applicants.

(d) For a school district to share in the planning target of a county government, the school district must:

(1) Serve the entire county; or

(2) In the event the school district is located in a county with primarily unincorporated land area, the school district must, in order to share in the planning target of that county, meet the following requirements:

(i) The school district demonstrates that more than 50 percent of the area of the county is unincorporated;

(ii) The school district serves at least 40 percent of the population of the unincorporated area; and

(iii) The school district's project principally serves the residents of the unincorporated area, e.g., at least 50 percent of the students served by a school project must be residents of the unincorporated area.

(e) School districts will share in the planning targets listed in paragraph (a) of this section by jointly prioritizing their projects with the projects of those applicants whose planning targets they are sharing and by submitting a unified list of priority projects as required by § 317.37.

(f) Should the school district and the applicant whose planning target it shares fail to come to agreement with respect to prioritizing their projects, EDA will select projects according to factors which include, but are not limited to:

(i) Job creating potential;

(ii) Time necessary to complete the project;

(iii) Energy conservation;

(iv) Long term economic benefits; and

(v) Critical local needs.

15. By amending § 317.61(a) and adding a new paragraph (b)(5) to read as follows:

§ 317.61 Projects selected from national set-asides.

(a) *Indian set-aside.* Subject to the provisions of § 317.42(c), each Indian reservation or tribal land has a planning target.

* * * * *

(b) * * *

(5) Projects eligible for funding under this sub-section will not be funded in an amount greater than that specified in the original application.

16. By revising § 317.62(b) to read as follows:

§ 317.62 Projects selected from State-wide planning targets.

* * * * *

(b) *State government planning target.* The Governor shall submit a priority ranking of State government projects up to the amount of the State government planning target, provided such projects are located in or primarily serve areas with unemployment rates equaling or exceeding the State's average unemployment rate or 6.5 percent, whichever is lower.

* * * * *

17. By revising § 317.63 to read as follows:

§ 317.63 Projects selected from sub-State applicant planning targets.

Subject to the provisions of §§ 317.50, 317.53 and 317.55, EDA will select projects in accordance with the sub-State applicant's unified priority list of projects up to the amount of the applicant's planning target.

(1) If an applicant has already exceeded its planning target in round I, it will receive no further projects. Similarly, once an applicant has reached its planning target with a round II project, no further projects will be selected.

18. By revising § 317.64 to read as follows:

§ 317.64 Undue concentration.

The Assistant Secretary reserves the right to vary the selection procedure as necessary to avoid undue concentration of funds and as necessary to comply with the objectives of the Act.

19. By correcting § 317.71(d)(2) to read as follows:

§ 317.71 Compliance with other Federal requirements.

* * * * *

(d) * * *

(2) Upon submission of an application to EDA, the applicant must certify that it has submitted the full application to the appropriate clearinghouse.

* * * * *

20. By correcting § 317.80(a) to read as follows:

§ 317.80 Grants for non-profit entities.

* * * * *

(a) In the event that EDA has obligated all funds appropriated under this Act prior to or on September 30, 1977, this section will not take effect.

(Sec. 701, Pub. L. 89-136, 79 Stat. 570 (42 U.S.C. 3211); Pub. L. 94-369, 90 Stat. 999 (42 U.S.C. 6701); Pub. L. 95-28, 91 Stat. 116; Department of Commerce Organization Order 10-4 (September 30, 1975) as amended, 40 FR 56702 as amended at 40 FR 58878 and 41 FR 35548).)

Dated: July 6, 1977.

ROBERT T. HALL,
Assistant Secretary for Economic Development.

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